

MICHAEL D. ROWLAND
UNITED STATES vs STATE OF GEORGIA

June 09, 2022

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
vs.
STATE OF GEORGIA,
Defendants.

) CIVIL ACTION
) NO. 1:16-cv-03088-ELR
)
)
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)
)
)
)

VIDEOTAPE DEPOSITION OF
MICHAEL D. ROWLAND

Thursday, June 9, 2022, 9:02 a.m., EST

HELD AT:

Robbins Alloy Belinfante Littlefield LLC
500 14th Street, N.W.
Atlanta, Georgia 30318

WANDA L. ROBINSON, CRR, CCR, No. B-1973
Certified Shorthand Reporter/Notary Public

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1 ALSO PRESENT:

2 VIA ZOOM:

3 FRANCES COHEN, ESQUIRE

4 PATRICK HOLKINS, ESQUIRE

5 RENEE WOHLLENHAUSE, ESQUIRE

6 ANDREA HAMILTON, ESQUIRE

7 SANDRA LE VERT, ESQUIRE

14 ALSO PRESENT:

15 BRANDON BRANTLEY, Videographer

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By Ms. Tayloe

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1 THE VIDEOGRAPHER: This will be the video
2 deposition of Michael Rowland, being taken in
3 the matter of United States -- United States of
4 America versus State of Georgia.

5 Today's date is June 9th, 2022.

6 The time on the record is 9:02 a.m.

7 My name is Brandon Brantley. I'm the
8 videographer. Wanda Robinson is the court
9 reporter.

10 Counsel, please introduce yourselves for
11 the record, after which the court reporter will
12 swear in the witness.

13 MS. TAYLOE: My name is Laura Tayloe. I
14 represent the United States. I'm here with my
15 colleagues Kim Gardner and Victoria Lill.

16 MR. PICO PRATS: I'm Javier Pico. I
17 represent the State of Georgia, and I'm here
18 with my colleagues Melanie Johnson and Danielle
19 Hernandez.

20 - - - - -

21 MICHAEL D. ROWLAND,
22 being duly sworn, was examined and testified as
23 follows:

24 - - - - -
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1 EXAMINATION

2 BY MS. TAYLOE:

3 Q Good morning, Mr. Rowland.

4 A Good morning.

5 Q Thank you for your time.

6 As you heard, I represent the United
7 States in the action the United States versus the
8 State of Georgia.

9 Am I correct in understanding you're
10 represented by Mr. Pico for purposes of today's
11 deposition?

12 A That is correct.

13 Q Have you ever been deposed before?

14 A Yes.

15 Q In what context?

16 A A little over a year ago in another
17 GNETS-related case.

18 Q Is that the only time?

19 A Yes.

20 Q And in that deposition were you a
21 representative of the Department of Education, or
22 was that in your personal capacity?

23 A Representative of the Department of
24 Education.

25 Q Right. So you understand -- just like

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1 that time, you're under oath. I'm going to ask
2 questions and your obligation is to answer as
3 truthfully and completely as you can.

4 A Yes, ma'am.

5 Q And the court reporter here is recording
6 what we say, recording our conversation for the
7 transcript. So I would ask that you speak slowly
8 and clearly, answer verbally without head shakes or
9 uh-huhs or uh-uhs.

10 Is that okay?

11 A Yes.

12 Q And so that we can avoid talking over each
13 other, I will let you answer my question before I
14 ask my next question and I would ask you to let me
15 finish my question before you begin your answer.

16 Is that okay?

17 A Yes.

18 Q If you don't understand my question,
19 please feel free to tell me you don't understand. I
20 can clarify it or rephrase it.

21 A Okay.

22 Q And if there comes a time later that you
23 remember something that you think would more
24 completely answer a question that we've already
25 addressed, just let me know. We can go back and

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1 supplement that record.

2 A Okay.

3 Q If you're -- well, if the attorney for the
4 State objects to my questions, you may still answer
5 them, so long as he doesn't instruct you not to
6 answer. Do you understand?

7 A Yes, ma'am.

8 MS. TAYLOE: I want to state for the
9 record the parties have stipulated objections
10 except as to form and privilege have been
11 reserved.

12 MR. PICO PRATS: Yes.

13 BY MS. TAYLOE:

14 Q Mr. Rowland, we'll take occasional breaks,
15 but if you need a break outside of one that is
16 scheduled, just let us know. My only question would
17 be -- request would be that you answer any pending
18 question and can we see about taking a break.

19 A Okay.

20 Q Is there any reason you can think of that
21 would prevent you from being able to answer
22 completely and truthfully.

23 A No.

24 Q Thank you. Okay. That takes care of the
25 background stuff.

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1 Could you please tell me your -- tell me
2 about your educational background after high school.

3 A Okay. I attended Abraham Baldwin
4 Agriculture College, where I have an associate
5 degree in business administration. Then Georgia
6 College, where I have a bachelor of -- bachelor of
7 science in -- political science.

8 And I have a Master's degree from Georgia
9 College in social studies and an educational
10 specialist degree from the University of Georgia.

11 Q What is the specialist degree in?

12 A I'm sorry. School administration.

13 Q Thank you.

14 Okay. Do you have any other relevant
15 certifications, credentials, licenses for the work
16 that you do?

17 A I hold a license to teach in the State of
18 Georgia. I think it expires this year, actually.

19 And a license as a school administrator.

20 Q And are you currently employed by the
21 Georgia Department of Education?

22 A No.

23 Q Okay. Who is your current employer?

24 A Well, I'm retired and I work part-time for
25 a firm SSOE. Stevens and Wilkinson.

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1 Q When did you retire?

2 A August of 2021.

3 Q Did you retire from a position in the
4 Department of Education?

5 A Yes.

6 Q What was that position?

7 A I was the assistant director for Facility
8 Services.

9 Q How long had you worked for the Department
10 of Education prior to your retirement?

11 A 10 years.

12 Q And how long had you been in the assistant
13 director for Facility Services position?

14 A About four years.

15 Q So can we -- I'll do rough.

16 So approximately 2017 to 2021?

17 A Um, that sounds about right. I went to
18 work with the department in 2011.

19 Q Why don't we -- why don't we worked
20 forward then?

21 A Okay.

22 Q What position did you have in 2011?

23 A In 2011 I was hired as an educational
24 facilities consultant in the Facilities Services
25 Division. That was in August of 20 -- I'm sorry.

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1 August of 2011.

2 In October of the following year, I was
3 hired as the director of Facility Services, and I
4 held that position until a reorganization of the
5 department, where we combined Facilities and
6 Transportation. I think '16 or '17 is about the
7 right time frame for that.

8 The reorganization gave me a chance to
9 take a lesser position in the department and work
10 from home, so I took advantage of that and worked
11 for the balance of my term as the assistant
12 director, just working with facilities.

13 Q Okay. So in the combined Facilities and
14 Transportation Department, you were working on the
15 facilities side?

16 A Yes.

17 Q Okay. Thank you.

18 Then let's go back a little bit before
19 that. You said you had a teaching license. Did you
20 have education experience before --

21 A Yes.

22 Q -- these roles?

23 A Yes.

24 Q Can you tell me what those were?

25 A I taught high school social studies --

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1 well, middle school, high school social studies from
2 1982 to 1988.

3 From '88 to '92, I worked as an
4 administrator with alternative education population.

5 In 1996, I became a high school principal
6 in Pulaski County; and I was high school principal
7 in Wayne County for six years; Putnam County for two
8 years, which is where I currently reside. And the
9 balance of my career I worked in the central office
10 as the operations director for the Putnam County
11 schools.

12 Q Operations director, is that sort of
13 oversees all the different aspects of the school
14 system?

15 A Well, it was -- yes. My responsibilities
16 were Facilities, Transportation, Food Service, and
17 Finance.

18 Q Facilities, Transportation, Food Service,
19 and Finance. Okay.

20 And I want to back up for a second. You
21 mentioned you had an administrative role with an
22 alternative education population. Can you tell me
23 what that entailed?

24 A Yes. In -- let me make sure I get the
25 dates right.

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1 Something about retirement, you forget
2 things. I think that's a trigger.

3 But probably about -- I worked in Houston
4 County at that time, and Houston County had an
5 alternative school program for the six -- eight --
6 6-12 population at that time, and probably around
7 '89, '90 they started a program specific to middle
8 grade students, where a population -- the population
9 was students who had been -- I'm going to use this
10 term for lack of a better one -- adjudicated,
11 disruptive through a due process feature that
12 assigned them to an alternative program.

13 Then there was a population of students
14 that were behind grade level and we created a
15 program to work with those students.

16 Eventually, those two programs were housed
17 in a facility where we had in that facility a -- it
18 would have been a GNETS program now. Back in those
19 days it was referred to as Psycho Ed.

20 And as, as principal of that facility, I
21 had oversight over the day-to-day operations of the
22 facility and I guess day-to-day oversight over the
23 disruptive population and the off-grade level
24 population, and my building housed -- I'll refer to
25 it as the GNETS program at that time, but I really

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1 didn't have direct oversight over those students.

2 Q So thank you for all that. I want to make
3 sure I understand that.

4 So you're saying in one facility there was
5 the program for adjudicated, disruptive students,
6 behind grade level program, and the GNETS program
7 was separate from those two?

8 A Yes.

9 Q Okay. Thank you. We're going to come
10 back to some of those things later. I was getting
11 background there.

12 So going forward, if I ask you a question
13 and your answer would depend on your position at the
14 time, or just clarify, let me know, because I may
15 have the sequence wrong if I'm assuming you were in
16 one position when I ask a question. Just let me
17 know.

18 A Yes.

19 Q Can you describe your responsibilities in
20 the position you had before your retirement, in your
21 assistant director of Facility Services?

22 A The Department of Facility Services was
23 responsible for administering the State's capital
24 outlay program for K-12 schools, and my role was --
25 and in that role there were five field consultants

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1 that worked with school systems to assist them in
2 the facility, planning aspect of that requirement.

3 And I oversaw the relationship between the
4 -- or I had oversight over the relationship between
5 the field consultants, the school districts, and the
6 rules, guidelines and implementation of that capital
7 outlay program for schools.

8 Q And you mentioned a facility planning
9 aspect requirement. What was the requirement?

10 A In order for schools to participate -- in
11 order for school systems to participate in the
12 State's capital outlay program, the law requires
13 that they engage in a five-year local facility
14 planning process, and that process is defined by
15 State Board rule guideline procedure.

16 Q So each school district presents the local
17 facility plan every five years or updates it every
18 year?

19 I'm sorry. How does that work time wise?

20 A Yes. So -- there's a little bit of
21 evolution, even in the 10 years that I was with the
22 department.

23 Early on, it was a five-year snapshot, if
24 you want to call it that, of the facility needs in
25 that particular school system. But even in the 10

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1 years that I was there, we evolved away from that
2 snapshot approach and more toward an annual update.

3 And what the law requires is that the
4 facility plan be updated annually and that every
5 five years there be a visit from a validation team.

6 So, so when we're -- for those of us in
7 the business, we talk about this five-year -- this
8 five-year exercise as the five -- as kind of the
9 five-year plan, but it really gets updated every
10 year with, with student count numbers, FTE numbers,
11 and the needs of the district.

12 Q Do you know if GNETS facilities are
13 included in the local facilities plans?

14 A It depends.

15 Q What does it depend on?

16 A Well, so, so if the local facility plan,
17 the district -- let me answer this way.

18 If a GNETS program were housed in a
19 facility that was included in the district's local
20 facility plan, then the answer is yes.

21 If a GNETS program or center were housed
22 in a facility that was not in the district's local
23 facility plan, then the answer would be no.

24 Q Okay. I'm going to jump out of my order
25 here because this is coming up now.

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1 A That's okay.

2 Q Are you familiar --

3 MS. TAYLOE: Well, strike that.

4 BY MS. TAYLOE:

5 Q Facilities that are -- GNETS facilities
6 that are included in LFPs, are they in what many
7 people consider general education school, a
8 classroom in a general education school?

9 A Yes.

10 Q And ones that are not included in LFPs
11 might be standalone centers, facilities that only
12 serve GNETS students?

13 A I wouldn't say that's true in total, but
14 it could be true.

15 Q What kinds of -- what part of that did I
16 not get right?

17 A So if, if -- from time to time school
18 districts using the State's rules could phase a
19 facility out of their facility plan; and when they
20 do that, what they're saying is the district, for
21 any number of reasons, no longer has a K-12 use, an
22 instructional use for this facility. And so we want
23 to -- we're going to phase it out of our plan.

24 It doesn't mean the district doesn't own
25 it anymore, doesn't mean that the district might not

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1 find some use for it. It's just that the district
2 is saying we're not going to use it for a K-12 FTE
3 earning function.

4 And from time to time a GNETS -- a center
5 might have been located in one of these facilities
6 that have been phased out of a local facility plan.
7 But it is also possible that a school system would
8 say we have a facility that is in our plan, that is
9 considered a center, and GNETS population is housed
10 there but other programs are housed there as well.
11 And so in that case a center could still be in the
12 local facility plan.

13 Q Thank you for clarifying that.

14 If a GNETS facility --

15 MS. TAYLOE: I'm sorry.

16 Q If a GNETS program moves into a facility
17 that had been phased out, would that facility remain
18 on the district's LFP?

19 A No.

20 Q Because it's not eligible for state funds
21 anymore because it's phased out?

22 A Correct.

23 Q Okay. I wanted to make sure I got that.
24 Thank you.

25 I'm going to go out of my order, too,

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1 because we started talking about things I
2 anticipated coming up later.

3 Could you clarify for us, please, what a
4 K-12 FTE function is?

5 A Yes. The State counts students in
6 full-time equivalents, and there's really kind of
7 two components of that. One, I'm not aware of --
8 less familiar with, the other I'm more familiar
9 with.

10 But in -- relative to the state law for
11 funding programs, FTE -- they're weighted FTE. So
12 various categories of students earn funds based on
13 their identity. You know, whether they're 9-12,
14 vocational programs, special education programs.
15 All have a different weight that applies to the
16 funding formula. And that's -- and I know that in
17 general and not specifically. I have no knowledge
18 of what those weights are.

19 But capital outlay we use non-weighted
20 FTE, which is more like a straight student count.
21 And the law, the law says that the FTE that we --
22 the way we calculate FTE for planning purposes is
23 there's a count in October, there's one in March,
24 and it's -- the formula is two times the fall count,
25 one time the spring count, divided by three.

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1 So that average is used in the LFP to
2 project FTE growth or loss over the next five-year
3 period.

4 Q And then that FTE number that's calculated
5 that way is used to determine the funding that the
6 facility or the district will receive from the
7 State?

8 A In part.

9 Q In part they'll receive additional funds
10 or that's part of what goes into the calculation?

11 A You're asking me for facilities, right?
12 Just on the facilities side?

13 Q I was going to clarify that because you
14 talk about the weighted number.

15 For the unweighted ones, that's for
16 facilities?

17 A That's right.

18 Q An for the weighted ones, it's used for
19 the same thing but it goes more toward programmatic
20 funds?

21 A The weighted FTE is the QBE formula money
22 that goes to the district.

23 Q Oh, so the weighted FTE is the QBE. Could
24 you just state for the record what QBE is?

25 A Quality basic education.

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1 Q Are GNETS program students counted -- how
2 are they counted for FTE purposes?

3 A I do not know that specifically. I just
4 don't know -- I don't know -- I don't know the ratio
5 and the funding formula for, for the various
6 programs.

7 There are, as can you imagine, any number
8 of programs, GNETS being one of them, and each
9 carries a funding.

10 So one is the -- 1.0 is the baseline, and
11 then generally a GNETS program would get funded at
12 1. something, something higher than one against the
13 formula.

14 But I'm not familiar with the specific
15 funding ratios.

16 Q So how is it then that GNETS students
17 could be placed in a K-12 school that's been phased
18 out if being phased out means it's not eligible for
19 FTE function anymore?

20 A So it is the practice -- or it was at the
21 time the practice of the Department to say -- the
22 determiner is where are you counting the FTE, and
23 what we would typically see in a situation where the
24 -- where a phased-out facility was being used by a
25 district is that they would be using that facility

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1 to deliver the program from multiple school
2 locations in a larger district, and so that FTE was
3 actually being reported back to a home school, not
4 reported from a facility code at the phased-out
5 facility.

6 Q So if I'm understanding this correctly, so
7 the FTE is attributed to the district that -- like
8 the home school of the student for purposes of FTE
9 accounting, but their services are being provided at
10 the phased-out facility; is that right?

11 A Correct.

12 Q Thank you. That's helpful.

13 Okay. So that was a little bit -- we went
14 far more into detail than I expected but that was
15 helpful to get that context.

16 Back to when you were the assistant
17 director for Facilities Services, who did you report
18 to?

19 A Pat Schofill.

20 Q And who reported to you?

21 A Hum. I really had no supervisory role
22 over anyone.

23 Q Not over the field consultants?

24 A I had a relationship with the field
25 consultants and I worked with them regularly but I

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1 did not -- I did not complete anyone's annual
2 evaluation.

3 Q Okay. Understand. Thank you.

4 And for clarity, I also saw references to
5 field directors. Is that the same position as the
6 field consultants or is that someone different?

7 A I'm thinking yes. I'm thinking that's,
8 that's what our field consultants --

9 Q There's no other title you're familiar
10 with?

11 A No, not within the Facility Services unit.

12 Q Thank you.

13 And then when you were the assistant
14 director for Facility Services, were there other
15 state government agencies or subagencies that you
16 sometimes worked with or communicated with as part
17 of your facilities work?

18 A Yes.

19 Q What would they be?

20 A Well, we communicated with the Governor's
21 Office of Planning and Budget frequently over
22 budgeting.

23 That's the, that's the main outside entity
24 that comes to mind. I don't have a specific memory
25 of other agencies. It doesn't mean it didn't

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1 happen. I'm just not coming up -- obviously, we had
2 a direct line relationship with the Governor's
3 Office when it came to budgeting.

4 Q Who was your main contact there?

5 A Oh, my -- I can't recall. The people at
6 OPB changed pretty regularly, and I just, I just do
7 not recall the names.

8 Q That's fine. And how frequently would you
9 say you were in communication with people at OPB?

10 A Not infrequently. You know, it --
11 typically, they would have a question about -- the
12 budget submission was usually in the September 1st
13 time frame. So obviously from September 1st through
14 December our office, whether it was me or other
15 people -- well, they didn't communicate just with
16 me, but sometimes I was involved in those
17 communications, and the purpose was to glean
18 information based on the budget requests that we
19 submitted from the local -- from the planning
20 process.

21 And then from time to time throughout the
22 course of, of a year, certainly when the legislature
23 was in town, there might be inquiries.

24 I'm thinking of the legislature. From
25 time to time we were asked to communicate with both

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1 the house and senate planners, staff. We met with
2 senators and representatives from time to time at
3 their request for whatever specific questions they
4 might have.

5 Q So would you describe your role there
6 mostly as providing information that they sought, or
7 were you in an advocacy role?

8 A I think more provide information.

9 Q Okay. Thank you.

10 MS. TAYLOE: I am going to -- I'm going to
11 hand the court reporter an exhibit that I would
12 like to have marked Exhibit 114.

13 (WHEREUPON, Plaintiff's Exhibit-114 was
14 marked for identification.)

15 BY MS. TAYLOE:

16 Q Have you seen this document before?

17 A Yes.

18 MS. TAYLOE: For the record, this is the
19 notice of deposition of Michael Rowland.

20 BY MS. TAYLOE:

21 Q Can you confirm you received this
22 deposition notice and your appearance today is
23 pursuant to this notice?

24 A Yes.

25 Q And you understand this deposition is

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1 being taken and in connection with the litigation
2 that we've been -- we referred to earlier?

3 A Yes.

4 Q And you've been using this term all right,
5 but just to be clear, when we talk about the GNETS
6 program, do you understand us to be referring to the
7 Georgia Network for Educational and Therapeutic
8 Support program?

9 A Yes.

10 Q Thank you.

11 When did you first learn of this
12 litigation?

13 A Um, I really think -- and I'm not really
14 clear on what year this was, but probably the first
15 I learned of it was in the 2014, '15, '16 time
16 frame, and the trigger to that was prior to that
17 budget year the Governor's Office put, I'm
18 remembering, \$14 million into a budget for GNETS
19 facilities grants.

20 And so that was kind of -- well, not kind
21 of. That was either at that time or just prior to
22 learning about that through somebody saying, hey,
23 you're going to get some money from the Governor's
24 Office and it's for this, and I started asking, so
25 what's going on? And then I learned about the

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1 lawsuit.

2 Q So is it fair to say that this kind of
3 grant was not a recurring thing, this is the first
4 time there had been a facilities grant for GNETS?

5 A Yes.

6 Q What is your understanding of the nature
7 of the lawsuit?

8 A I had -- my understanding was that the,
9 the nexus of the lawsuit had to do with the way
10 program services were being provided to GNETS
11 eligible students.

12 Q What did you understand the issue with the
13 way they were being provided was?

14 A You know, I really don't have a strong --
15 I don't even have -- I don't even have a superfluous
16 understanding of that, other than, as I mentioned, I
17 have a background as an educator that tells me that,
18 you know, based on IEP, students are eligible for
19 services that are identified. Specifically what
20 they might be, that knowledge is not -- I don't have
21 that at my finger tips, but whatever, whatever
22 service or supports or program -- programs, for lack
23 of a better way to put it, that GNETS students were
24 eligible for, it's my understanding that the
25 Department of Justice had some concern about --

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1 maybe that's understating it, but had some concern
2 about how those were being delivered, or if they
3 were being delivered.

4 Q So I was going to ask you when you first
5 became aware of the GNETS program but you testified
6 your work with the alternative schools you were in,
7 facility with the predecessor the GNETS program, the
8 psycho educational facilities? Is that when you
9 first learned about the program?

10 A I would say, you know, I first taught
11 1982, and in 1982 we had severely disruptive
12 students that, that were -- that were being served
13 by whatever program language was in effect at that
14 time.

15 But I didn't really become involved as an
16 administrator until the early '90s -- '89, '90 time
17 frame.

18 Q How did you become involved in the early
19 '90s?

20 A Through the alternative school that I --
21 where I served as the administrator.

22 Q And that was in the code placed program at
23 the facility?

24 A Yes.

25 Q And then when you left that position, did

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1 you have any involvement with GNETS again before the
2 grant issue arose?

3 A Yes.

4 Q What was that?

5 A I was a high school principal for 11
6 years, in three different school systems, and from
7 time to time there were students in those schools
8 that were referred for GNETS services.

9 Q And when you say referred for GNETS
10 services, does that mean they were referred to a
11 different building to receive those services?

12 A Well, my experience was that we would --
13 or my memory of my experience was that we -- if we
14 had a situation where, you know, these kids were
15 being served on a continuum generally, in the sense
16 that we obviously were trying to find the place to
17 educate them that is least restrictive, but if their
18 behavior was disruptive to the point that it
19 impacted their education in the setting where they
20 were, then an IEP team would be assembled and we
21 would meet with the parents and the IEP team and
22 look at the child's services that were being
23 provided, how it was impacting their program, and
24 then the team would make a decision about placement.

25 Q Okay. And so sometimes that team would

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1 decide that the services a child needed would be
2 only available at a GNETS facilities program?

3 A Well, I would say it this way: The team
4 would decide the child needed GNETS services. At
5 that point it really became an issue of how, how did
6 the district provide those services.

7 Because in some cases the district
8 provided those services at the home school, either
9 in some kind of pullout program, or some separation
10 from the general population, or some -- didn't have
11 to be that way. It could be that -- again, based on
12 the continuum of the child's behavior, some kids
13 could manage the regular environment to some degree
14 or, or -- you know, certainly less restrictive than
15 GNETS, but they needed the restrictive nature of the
16 GNETS program for some portion of the day.

17 So it really depended -- again, my memory
18 of my experience is it really depended on the
19 situation.

20 And then in some instances school systems
21 had made management decisions, for lack of a better
22 way to put it, to house a GNETS program at a campus,
23 not, not the home campus.

24 Q What is your understanding of how the
25 GNETS program is structured?

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1 A Well, I really don't have any knowledge
2 of, of the program side of GNETS, other than what
3 I've explained to you about how it worked when I
4 served as a school administrator.

5 But the last high school principalship I
6 had was in 2007, and, really, from 2007 moving on I
7 just really didn't have any kind of contact with the
8 program, certainly specific to the nature of the way
9 it was run.

10 Q Understood.

11 So this is also going to seem a little out
12 of order that we've gone through some abbreviations.
13 For the record, I'm getting clear.

14 We haven't talked about if I refer to
15 Department of Education as "DOE" or "GaDOE," you'll
16 understand I'm talking about the Georgia Department
17 of Education?

18 A Yes.

19 Q When I refer to an "LEA," I'm talking
20 about a local education agency?

21 A Yes.

22 Q And if I refer to a "RESA," I'm talking
23 about a regional education or educational service
24 agency?

25 A Yes.

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1 Q And if I say "DBHDD," I'm referring to the
2 Department of Behavioral Health and Developmental
3 Disabilities?

4 A Yes.

5 Q I don't know if this will come up, but if
6 I do say DCH, that's the Department of Community
7 Health?

8 A Yes.

9 Q Thank you.

10 And there are some -- I would like for you
11 to tell me what you mean by them or how you
12 understand these abbreviations to work.

13 A Okay.

14 Q We've already talked about Local Facility
15 Plan. So we'll need to say LFP. That's the Local
16 Facility Plan we've already talked about?

17 A Correct.

18 Q What about FSR?

19 A Facility School Registry.

20 Q And what's that?

21 A The Facility School Registry is the
22 mechanism the Department -- the DOE uses to, to
23 database or warehouse information about school
24 sites, facilities, schools and programs.

25 Q And COPS?

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1 A Stands for the capital outlay planning
2 software, and the capital outlay planning software
3 is the mechanism that DOE uses to collect needs
4 assessment data by district to create the statewide
5 needs assessment necessary to determine what capital
6 projects are eligible for state funds.

7 Q And those would be projects that are
8 listed in the LFPs?

9 A Yes.

10 Q Thank you.

11 OPB, that's the Government Office for
12 Planning and Budget?

13 A Correct.

14 Q And who are -- how about GSFIC?

15 A Georgia State Finance Investment
16 Commission, and I had really two -- there were two
17 divisions within GSFIC that I had direct contact
18 with. One was obviously the finance side, because
19 the planning process that was housed in this COPS
20 software became the basis for entitlement sheets --
21 the basis for entitlement to school districts, which
22 became the basis for a potential application for
23 funding, which became the basis for a budget
24 recommendation to the Governor's Office, which
25 became the basis for a signed budget, which became

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1 the basis for the bond sale that would happen
2 subsequent to that to fund those approved projects.

3 Q I'm trying to kind of ask this in the real
4 world.

5 Is it -- how much of the needs would you
6 say were addressed by the ultimate bond that we're
7 -- needs identified in the plans and requested, how
8 much of that would often be allocated in the final
9 budget?

10 Were those needs fully met or partially?

11 A Well, I hate to keep saying this, but it
12 depends, and let me see if I can just give you sort
13 of a streamlined idea.

14 With 180 school systems in the state, the
15 purpose of the plan -- the purpose of the plan
16 process -- well, it had multiple purposes, but for
17 purpose of this discussion, the purpose of the plan
18 was to collect needs assessments -- needs assessment
19 data, and those needs would be identified as needs
20 that were eligible for state funds and needs that
21 were not.

22 And the legislature contemplated in the
23 law that districts would collect both sets of
24 information in that Local Facility Plan because from
25 time to time the legislature wanted to understand

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1 what is the relationship between state funding and
2 local funding, because none of those projects were
3 ever funded fully. It was always some portion of
4 the actual cost.

5 And, and that was really by design, not so
6 much in the law. The law gave the department the
7 authority to make these guidelines and rules, and
8 they did, and decisions were made long before I got,
9 I got involved, that there wasn't enough money to
10 pay for everything, so it would be a portion of what
11 the actual costs were based on formulas that are in
12 State Board rule and get updated from time to time.

13 So, so -- so if you think about it in that
14 context, the need for 180 school systems that was
15 eligible for state funding in a given year might be
16 in the hundreds of billions of dollars, and what got
17 actually funded depended on -- depended on what
18 systems actually applied for in a particular fiscal
19 year, you know, and prior to the upcoming fiscal
20 year.

21 As you can imagine, most school districts
22 wouldn't have enough local money to go with the
23 state funds to get to all of the projects in the
24 plan, so they had to pick and choose and prioritize
25 and do them over time.

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1 So, so I don't really know how to quantify
2 a percentage of every year how much of the budget
3 met what percentage of the statewide need, but I
4 think -- I would answer -- or I would say this. I
5 don't know if it answers your question or not.

6 But in my time at the department I don't
7 remember a time that a local district applied for a
8 project for which they were eligible, we put it into
9 a budget, and it didn't get, it didn't get funded.

10 Q That's helpful but even if it was funded,
11 they would still -- the local district would have to
12 match some of the funds --

13 A Yes.

14 Q -- or provide some of the funds
15 themselves?

16 A Yes, that's correct.

17 Q And when you talk about eligible for state
18 funding, what kinds of things are not eligible for
19 state funding?

20 A Generally site work, which would include
21 repaving parking lots -- and, again, they're kind of
22 two categories of ways to think about it.

23 When you think about a new school, site
24 work is everything from, you know, grading to
25 landscaping, but in an existing facility, a district

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1 might have a need to repave a parking lot, for
2 example. And we would consider that site work and
3 not eligible for state funds.

4 Sometimes -- you know, sometimes a
5 district might put in their plan that they needed to
6 do site work for drainage. There was some drainage
7 issues and they needed to get a site contractor
8 on-site to do some grading and take care of standing
9 water, whatever, runoff. Those kinds of -- that's
10 the kind of site work that was not eligible for
11 state funding.

12 Q And do I understand it correctly that site
13 work means as opposed to facility work? Like if --
14 sort of the physical property, the land, instead of
15 the building?

16 A Correct.

17 Q Okay. Thank you.

18 Okay. One last acronym -- not acronym.
19 Abbreviation. I don't know if you say it by letter
20 or say it, but S-P-L-O-S-T.

21 A SPLOST.

22 Q SPLOST. Okay.

23 A Yes.

24 Q Do I understand that to be the Special
25 Purpose Local Options Sales Tax?

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1 A Yes.

2 Q And E-SPLOST is one for education?

3 A Correct.

4 Q And can you tell us a little bit about how
5 that works?

6 A Sure. So state law allows for every,
7 every district to place on a ballot a question
8 related to whether the tax -- the voters of that
9 district will impose a one cent sales tax for
10 education, and the constitution of the State of
11 Georgia enumerates what the -- what that tax is
12 eligible to fund.

13 From my perspective, relative to my work
14 at the Department, one of those things it can fund
15 is capital projects. So, in a nutshell, the
16 E-SPLOST was really the means by which most school
17 systems had money -- had local money to get to the
18 state funds to which they were entitled.

19 Q So when a district is entitled to state
20 funds but they need local funds to cover the
21 difference, they could raise that money through an
22 E-SPLOST?

23 A They could.

24 Q If they got the voters to approve the tax
25 increase?

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1 A That's right.

2 Q Thank you. Okay.

3 And then we've kind of touched on some of
4 these but I want to again clarify your terminology
5 here.

6 When we talk about school districts or
7 LEA, we're talking about the county or city
8 overseeing public education in that region; is that
9 correct?

10 A Yes.

11 Q And the site, you just clarified, that's
12 the geographical location, the real property itself,
13 the land itself?

14 A Yes.

15 Q The facility is on the site, may consist
16 of more than one building?

17 A Yes.

18 Q So the term "school" could refer to one
19 building and the site it's on, or a facility with
20 multiple buildings on the site?

21 Would that be encompassed by the word
22 "school"?

23 A Yeah. Let me frame it differently.

24 Q Thank you.

25 A For purposes of the way we use the term

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1 "facility" and "school" and capital outlay," the
2 facility is the, the physical building or collection
3 of buildings, okay.

4 The school represents a, a set of students
5 based on definitions that might be created by the
6 school system.

7 Here's an example. We may have a -- this
8 would happen most likely in a smaller school system.
9 You may have a facility called ABC Middle High
10 Facility. It's a collection of buildings on a site,
11 and inside that facility, which might have a single
12 facility code, there might be two schools open, ABC
13 High School and ABC Middle School. And those two
14 schools have separate codes. And that coding system
15 is, as I understand it, how the funds flowed back to
16 -- back to the district based on how students are
17 coded in those school settings.

18 Q So when you gave the example of middle
19 school and a high school in the same facility, would
20 those -- the codes associated with them be referred
21 to as program codes?

22 Is that what the program codes mean or
23 something different than a school code?

24 A That's something different than a school
25 code.

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1 And, again, I want to -- I want to preface
2 what I say by telling you that I have a general --
3 if you talked to me about facility codes, school
4 code, program code, I certainly understand -- I mean
5 I certainly have intimate knowledge of what those
6 codes are intended to do. And at the -- the school
7 code identifies a group of students that, that have
8 a, that have a common structure.

9 So part of this has to do with -- and I
10 don't -- this is way out of my -- out of my deep
11 understanding, but this really has to do with
12 accountability in a sense that whatever
13 accountability structure is in place now, or the one
14 that started 20 years ago, whenever we first started
15 thinking it might be good to see how kids are doing,
16 or measure it in some way, you had to have a way to
17 identify the kids. So school code became the way
18 you could say this is how this group of kids is
19 performing relative to other school codes.

20 Well, from time to time school systems,
21 through local board of directors, administrators,
22 that collective -- their collective wisdom, would,
23 would want to create a program that is really a
24 subset of maybe one school or multiple schools
25 trying to, again, engage students in some fashion.

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1 You know, whatever it might be. So that you might
2 bring kids from several school locations into a
3 program, work with them in some special or targeted
4 assistance, maybe that's the way to say it, but at
5 the end of the day each one of those students
6 carried a school code into that program.

7 And so for accountability purposes, when
8 it came time to measure them, they went -- their
9 measurement went back to a school.

10 Q Okay. So when you spoke earlier of your
11 experience, there was an alternative school and the
12 off-grade level program and the GNETS program, those
13 are three different programs within a shared
14 facility or a -- a shared facility?

15 A Yeah. Well, okay. I want to try to
16 remember -- remember that was a long time ago now.

17 What I think I remember is that in that
18 situation, which would have been again the late
19 1980s, the kids that were in an alternative
20 environment for, for disruptive behavior, and the
21 kids who were in that environment because they were
22 behind grade level represented the school code. And
23 that, and that -- that -- those two groups of kids
24 had a school code. I don't know what it was,
25 couldn't possibly remember that.

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1 But that -- in that way the accountability
2 didn't measure those kids back at a home school,
3 even though they came from one. It measured them at
4 that location, at that school.

5 The GNETS program at that time was a
6 program, and those kids -- this is my memory -- and
7 those kids would have been -- they would have
8 carried school codes with them that went back to
9 home schools, and not the school code that was
10 associated with the -- and I'm calling the
11 alternative school population.

12 Q Okay. So, so some things that might look
13 like programs are in fact schools, and these
14 children will have -- students will have school
15 codes associated with them there, and other things
16 that look like programs are in fact separate service
17 delivery systems, and then the students would have
18 their still school codes associated with them while
19 they're served in that program?

20 A I think that's right.

21 Q Okay. Thank you.

22 I think that's all my questions on that.
23 I just encourage you to correct me if I use a term
24 in a way that makes it not make sense to you, the
25 way I'm trying to ask the question.

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1 All right. Get to the substance.

2 Are you familiar with the GNETS strategic
3 plan?

4 A I'm not familiar with it, no. I know it
5 exists, but I haven't looked at it, never -- I
6 didn't have a role to play in creating it.

7 Q Does the Department of Education have a
8 role to play in it?

9 A Again, I just -- I don't have any specific
10 knowledge of -- other than the fact that I know that
11 was, as I was transitioning out of my role as a
12 director into a field position and then ultimately
13 retiring, I know that was something that was being
14 worked on, but -- and I had heard reference to it,
15 but I didn't have any direct involvement in, in it.

16 Q Okay. Then are you familiar with the
17 Facilities Conditions Assessment Project?

18 A Yes.

19 Q Could you describe to me generally what
20 that entailed?

21 A Okay. So I was the director when the
22 Governor's Office put the \$14 million into the
23 budget for, for GNETS facilities. And it was --
24 when the budget was passed, my boss, who was the CFO
25 at the time, came down and said, okay, I don't know

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1 where this money came from or what we're supposed to
2 do with it but you got to figure it out.

3 Okay. And, look, it's okay. I mean
4 that's -- so one of the things -- and this was, this
5 was me.

6 We do -- before we give out money to
7 school systems, we require them to create a needs --
8 to hire an architect and do a needs assessment.
9 Well, I don't care whether they hire them or not.
10 The architect will do it for free but you got to
11 have an architect to do a needs assessment for the
12 things that are going in your plan.

13 We had -- and these numbers might not be
14 exactly right, but they are from my memory. There
15 were 46 different locations, based on a list I was
16 given from the program staff, that said, here's
17 where all these kids are located. These are
18 addresses.

19 And some of them are at schools that in a
20 Local Facility Plan, some of them are at -- well,
21 let me -- again, in my world it's easy to use school
22 and facilities interchangeably, but they are really
23 different. Some of these students were at
24 facilities, in the facility plan. Some of these
25 students might have been in facilities that were not

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1 in a facility plan, and some were in phased-out
2 facilities, and some were in -- so, so, it just
3 occurred to me the first thing we needed was a needs
4 assessment.

5 So I asked for permission to use a portion
6 of that 14 million to engage an architectural firm
7 that would conduct these needs assessments. And I
8 got that permission. I went through the selection
9 process, and we hired a firm.

10 And in that summer -- you'd have to tell
11 me the year. If you tell me the year, I'd say
12 you're right because I don't remember the years.
13 But in the summer of that year the firm that we
14 hired did what we would call a non-destructive site
15 evaluation of each facility, each one of those
16 facilities that was on the list, provided to us by
17 the program staff.

18 They had two or three teams; divided the
19 State up into quadrants. You know, one team went
20 here, one team went there. And that function went
21 on all summer.

22 As a kick-off to that, we made a -- we
23 made the decision to -- myself and -- I know I was
24 involved. Some of the program staff at GNETS was
25 involved in this. And then representatives from --

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1 the team from the architectural firm that we hired,
2 they put together a -- they were going to do --
3 again, if I remember correctly, they were going to
4 do these site visits in about -- in clusters, based
5 on where they were located, just for efficiency.

6 And so we created kind of a test case of
7 three or four sites that we would go look at
8 together. They would do their work. We would be
9 there watching it, looking at it, giving feedback,
10 say look at this, don't -- make sure you look at
11 that. They would say we can't look at this but we
12 can look at that.

13 And that became sort of a baseline from
14 what the teams would do moving forward, to visit the
15 remaining sites, and that function went on during
16 the summer.

17 And in some time in the mid to late July
18 time frame, I think we got a draft report from, from
19 the architect.

20 Q Thank you very much for that overview.

21 I want to back up to a few things you
22 said.

23 You said you received a list of 46
24 locations from program staff. Could you tell me who
25 program staff are?

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1 A At that time, the director was Nakeba
2 Rahming.

3 Q And so she's program staff with what
4 office?

5 A I don't really know what the office name
6 was at the Department, but --

7 Q She was in the Department of Education?

8 A Yeah, she was a Department of Education
9 employee, correct.

10 Q Okay. And when you said nondestructive
11 assessment, from what I've seen, I understand that
12 to mean, and correct me if this is wrong, that means
13 they weren't checking for mold or hazardous
14 materials? Nothing that would have to sort of look
15 behind a wall or something, just what was visible by
16 --

17 A I think the -- I think looking at what's
18 visible, I mean you can see mold. So you might, you
19 might see mold. If you could see it, you could
20 document it. But if it meant, you know, taking off
21 a wall panel or pulling back part of the roof, then
22 that was not done. It was pretty much a visual
23 inspection whatever you could see.

24 Q Okay. I think we're talking over each
25 other, so I'll try to wait more.

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1 A I'm sorry.

2 Q I'll ask you to do that.

3 So that's a better way to phrase then. So
4 it was just what they -- they reported what they
5 would see visually without taking anything apart or
6 looking inside of anything?

7 A Yes.

8 Q All right. And when you said you did a
9 kick-off session yourself and some GNETS staff and
10 architectural firm went to test sites, how were the
11 test sites identified?

12 A I think just a random. The, the places we
13 went were in Southeast Georgia, and there was no
14 specific reason for that other than we had to pick
15 somewhere and that's where we picked.

16 Q Okay. What was the role -- there was an
17 OPB review as well. Where did that fall in the
18 sequence?

19 A That was -- again, I was not involved in
20 that and I only became aware of it when I knew that
21 the Governor had set aside the money for the grant.

22 So it was prior to, prior to the, the
23 money in the budget for the grant and the facility
24 needs assessment.

25 Q So their review was first, and then your

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1 team's review, and then the architectural review?

2 A Well, their -- as I understand it, OPB
3 review was prior to the Department's review, which
4 was really a -- there wasn't a separate -- well, I
5 think you did say that right.

6 There was a -- again, I remember now that
7 we're talking about it a little bit. Prior to
8 sending the architects out and us, myself and I
9 think Nakeba was on that team as well, going to
10 Southeast Georgia and doing this test run, we did
11 send our field consultants out to these facilities
12 with a document created by the architect that said,
13 look, just put your eyes on this spot.

14 These guys are not facility condition
15 assessment specialists; they're former educators
16 like I am, but with an awful lot of experience of
17 doing what we do. And so the first -- kind of the
18 first draft was, take this checklist and just go
19 through the school and give us a very high level,
20 check-it-off-type thing, so that we can then give
21 that information to the architects, and they can use
22 that in informing their decisions about how they,
23 how they move forward with the assessments.

24 So, so there was an OPB function and kind
25 of a department intermediate function, and then

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1 this, what I guess would be a more formal exercise
2 by the -- by the architects.

3 Q Do you recall receiving any assessments or
4 evaluations from OPB that would guide like which
5 ones they thought were in critical condition before
6 you began your review?

7 A I don't remember that. I do remember
8 having a meeting with the individual who was -- who
9 had led that effort. I don't remember her name.

10 It was -- and I'm not even sure I actually
11 saw the physical report, but I do know that she came
12 to my office and sat down and told me what they had
13 done, but I didn't keep any kind of record of, of
14 what she, what she said or identified, and I just
15 don't -- I didn't look at that. I didn't get that
16 information.

17 Q Okay. And what was -- what was the
18 overall objective of completing the facilities
19 conditions assessment?

20 You told us sort of the origin. What was
21 the objective?

22 A Well, I think the objective was to create
23 this needs assessment so that -- and very similar to
24 what we do with K-12 capital outlay. We have a
25 needs assessment, now we're going to offer you an

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1 opportunity as a GNETS program to apply for funds to
2 meet some of the needs in this -- assess some or all
3 of the needs in this assessment, and that was what
4 it was for. I mean that was the basis for it.

5 Q So were the facilities that were assessed
6 only those that were eligible for grant funding, or
7 were all the GNETS facilities assessed?

8 A All of them.

9 Q All of them?

10 A Everything that was on the -- this is my
11 memory. Every location that the GNETS staff gave us
12 a physical address for was in that facility
13 conditions assessment.

14 Q And you gave an estimate before. Do you
15 remember about how many facilities then were on the
16 final list that were inspected?

17 A Forty-six. Or that's my memory.

18 Q You said before that you learned about
19 this grant and you thought the first thing that
20 needed to happen was a facilities assessment to
21 parallel the work in the other schools, and you
22 asked for permission to use part of that money to do
23 that assessment.

24 Who granted that permission?

25 A OPB ultimately.

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1 Q OPB. So that's the Governor's Office?

2 A Yeah. The -- I worked for the CFO, and
3 basically get my direction from him. So when I say
4 OPB, I don't really know that for sure, but I asked
5 him -- it was my assumption he went and asked OPB if
6 it was okay to use the money they appropriated, some
7 portion of it for that purpose, and got permission
8 to do that.

9 Q Okay.

10 A So I kind of filled in some gaps there, I
11 think, just assuming that makes sense it would have
12 worked that way.

13 Q And who else from the Department of
14 Education participated in the site visits with you?

15 A The only, the only site visit that I
16 participated in was the test site, the test visits
17 to the ones in Southeast Georgia.

18 Q Okay.

19 A And I believe that -- I'm reasonably
20 certain the field consultant from that area
21 participated in that, in that visit.

22 Q Along with you and Nakeba?

23 A Yes.

24 Q Do you know if anybody from the Department
25 of Education went on any of the other --

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1 MS. TAYLOE: Well, let me rephrase that.

2 Q So the field consultants went on the
3 intermediate round of facilities visits. Do you
4 know if anybody from the Department of Education
5 went with the architecture's round of assessments?

6 A I don't believe so, no.

7 Q Do you remember what the results were of
8 the preliminary assessment you said you received in
9 the summer? What happened when you got the
10 preliminary report?

11 A There were, there were a number of
12 facilities that the report documented both in
13 narrative form and with supporting pictures that
14 were in very bad condition.

15 And so we shared that information with the
16 State Board of Education.

17 Q And what did they do with that
18 information?

19 A The, the -- ultimately, the State Board
20 chair, if I remember this correctly, wrote a letter
21 to those -- I'm going to say programs. Now, you
22 know, if RESAs were the agencies, then you can say
23 that was RESA, but superintendents are on those
24 boards of control. So the superintendents really
25 indirectly or directly were the target of the

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1 information.

2 And it was my understanding -- or my
3 memory -- and I saw the letter. Probably -- I just
4 don't remember the specifics of it, other than I
5 think it was aimed at trying to say those districts,
6 you've got some real issues and we're giving you an
7 opportunity to fix them.

8 To the extent that the State Board had
9 whatever authority it had -- which really is outside
10 of my purview. I don't really know ultimately what
11 authority they had, but I do know the letter went
12 out from the State Board chair that said we've
13 gotten information that says this isn't very good,
14 we need you to do something about it.

15 Q And was your understanding that the State
16 communicated to the superintendents that the
17 Department of Education would no longer support
18 students being housed in those facilities?

19 A I don't really know how -- I think, I
20 think -- I think certainly the intent of the letter
21 was to force a conversation on these superintendents
22 that hopefully would help them come to their own
23 conclusion about the inadequacy of where they housed
24 these kids and make decisions without having to be
25 force into anything.

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1 And my memory is that that, that work --
2 that was typical. That was in general what
3 happened. Now, that didn't mean I didn't have to go
4 sit down with some of them and walk through what
5 some of their operations were, but -- and we did
6 that at their request.

7 So I think the intent of the letter was
8 certainly to, to heighten the sense of urgency with
9 these superintendents over how they were housing
10 these -- over where they were housing these
11 populations.

12 Q So it's your recollection that none of the
13 superintendents or school districts felt they were
14 instructed to close facilities?

15 MR. PICO PRATS: Objection in terms of
16 there's a legal conclusion or any type of
17 knowledge of legal fields, that's outside of
18 his knowledge.

19 MS. TAYLOE: Okay. I'll address that
20 through documents then.

21 Let me -- I'm going to start with what was
22 previously marked as Exhibit 86.

23 (WHEREUPON, Plaintiff's Exhibit-86 was
24 marked for identification.)
25

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1 BY MS. TAYLOE:

2 Q I'm referring to the exhibit that has been
3 produced by the State. It's marked GA00196569, and
4 it is an email from Mr. Rowland to Ted Beck, dated
5 December 1st, 2015.

6 Are you familiar with this document?

7 A Yes, ma'am.

8 Q Do you see at the beginning of the second
9 paragraph where you're talking about narrowing the
10 list of facilities to be visited by our consultants?

11 A Yes.

12 Q What was the basis for narrowing the list?

13 A Yeah, I think in reading on down, what I
14 think I'm referring to is the fact that if we had --
15 and we've talked about this earlier.

16 If we had, if we had knowledge that GNETS
17 students were being served in a facility that was
18 already in the Local Facility Plan, then that
19 facility had a way of earning state funds for
20 capital improvements.

21 So we wouldn't look -- those, those --
22 those wouldn't be reviewed.

23 But these other facilities that were not
24 in Local Facility Plans would.

25 Q So maybe I misunderstood. When I asked if

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1 you were looking at all of the facilities or only
2 those for -- that were eligible for state grants,
3 you said all of them. Did I misphrase --

4 A So -- in the sense of that statement, when
5 a school district applies for funding for a facility
6 that's in their local facility grant, plan, that is
7 a state grant for facilities, because if it's
8 funded, those funds are -- so, so in the -- in the
9 true sense of this, the definition of a state grant,
10 if, if -- let's say a GNETS program was housed in a
11 facility that was in the Local Facility Plan and
12 that summer the district applied for a new roof for
13 that school, well, that's a state grant to that, and
14 it was funded.

15 Q Okay.

16 A Then that's a state grant.

17 Q I understand the distinction. So let me
18 rephrase the question.

19 So was this facilities condition
20 assessment you looked at all GNETS facilities or
21 only those GNETS facilities that would be eligible
22 for the 14 million specific facilities grant --

23 A Yes.

24 Q -- that was at issue?

25 A I think that's correct. What we were

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1 trying to do is target just the facilities that
2 would be eligible for applying for the grant money,
3 because the grant, as I understood it, it was
4 intended to be competitive.

5 We wanted it to be based on this need
6 assessment. So you at least have to apply for
7 things that have been identified as needs, and if
8 you already have a facility in a Local Facility
9 Plan, there's a mechanism for that already
10 established through department policy.

11 But this other was any facility that fell
12 outside of that.

13 Q Okay. So there could be some facilities
14 that might have been disrepair but otherwise
15 needing, needing repairs that might not have been
16 assessed because they were already covered by an
17 LFP?

18 A That's correct.

19 Q Okay. And then other questions on this,
20 this email was copied to Clara Keith and Deborah
21 Gay.

22 Can you tell me who they are?

23 A Debbie Gay at the time, if I remember
24 correctly, she was -- I don't remember her title but
25 she was over special education programs at the

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1 department.

2 And I think Clara worked in our Policy
3 Division. Honestly, I really don't know what role
4 she played at DOE, other than -- and I know there
5 was a time when she had retired and might have been
6 actually working for another state agency. I just
7 don't -- I don't remember her specific connection by
8 state agency to the exercise, other than she was a
9 part of the team.

10 Q Okay. So I know some part of her
11 employment she was employed by DBHDD.

12 A Yeah, and that's what I'm kind of -- so
13 when I first went to the Department, she worked in
14 the Department. And I just don't know what division
15 she was in, and I knew Clara as a colleague because
16 we would attend meetings, not related to GNETS in
17 any way, but I just didn't -- I don't really know
18 what she did.

19 Perhaps by the time she was involved in
20 this, she was -- she was working for the other
21 agency. I just don't know the answer to that.

22 Q So you asked her to work with Debbie. In
23 the third paragraph, it talks about you asked her to
24 work with Debbie and her team to develop the
25 application to be used to award facility grants.

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1 Was that in your connection with her as a
2 colleague or was that her role --

3 A Whatever role she was playing.

4 Q Whatever role. Thank you.

5 The last part on this document, it talks
6 about the GSFIC is working on the RFQ. The RFQ is
7 request for qualifications for design professional,
8 and that is the process you talked about before,
9 about getting the architectural team on board to do
10 the assessments?

11 A Yes.

12 Q And you already made reference to the
13 checklist. So I just want to make sure I'm
14 understanding your reference. Is this the checklist
15 where scores were rated, different categories were
16 rated from one to five? You know, from poor to like
17 new, or critical to like new?

18 A I believe so.

19 Q And we can talk about the other later.
20 Okay.

21 Then next -- may I ask momentarily to see
22 the full version of the document you have because
23 yours has attachments?

24 Thank you.

25 Since this was previously marked as

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1 Exhibit 86, I would like to note that the document
2 produced by the State at GA00196572 is attached as
3 an exhibit to this document. I ask, did you see if
4 that's the correct list you've been talking about?

5 It's not the first attachment. It's
6 behind the blue sheet of paper.

7 A Yes.

8 Q Okay. Thank you.

9 So that's the document that field
10 consultants used when they went out to the different
11 facilities to do assessments?

12 A Yes.

13 Q Is that also a document that the
14 architectural team used when they went out to do
15 assessments?

16 A I really don't remember -- I would -- my
17 memory is that their -- whatever documents they used
18 to do those assessments had different detail, but I
19 just don't remember.

20 I mean if you showed it to me and said
21 this is what they used, I certainly would agree. I
22 wouldn't have a way not to agree with that, but I
23 don't think it was this exact document. It could
24 have been but I don't remember it that well.

25 Q Okay. Thank you.

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1 MS. TAYLOE: Then I'm going to --

2 BY MS. TAYLOE:

3 Q Were there any facilities that did not
4 want to have -- I'm sorry.

5 Were there any superintendents or school
6 districts that did not want to have their facilities
7 assessed?

8 A I'm not aware of that, no.

9 I'm not saying that -- I really don't -- I
10 don't remember having any trouble getting the
11 assessments done.

12 Q I know it was a long time ago.

13 MS. TAYLOE: I'm going to provide the
14 court reporter document GA00196767, and this
15 will be Exhibit No. 115.

16 (WHEREUPON, Plaintiff's Exhibit-115 was
17 marked for identification.)

18 BY MS. TAYLOE:

19 Q This is an email from Mr. Rowland to Doug
20 Suits, dated January 7th, 2016.

21 Are you familiar with this document?

22 A Yes. So I stand corrected.

23 I mean I -- again, if you showed me that
24 first and asked me the question, I'd say, yep, that
25 happened. But, you know, being able to remember

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1 that one specific just, just couldn't do it.

2 Q I don't mean to trick you. I was just
3 hoping to avoid having to do so many documents, and
4 what we can do by memory, we can just do it that
5 way.

6 A You're talking about one instance out of I
7 don't know how many emails that went back and forth.
8 But obviously seeing that I'm reminded of the
9 situation. But I think you also see that that no
10 was really not an option.

11 Q So the reason I'm curious about this is,
12 again, trying to figure out the purpose of the
13 facility assessment, since it was really about who
14 was eligible for grants.

15 You see the email you're responding to
16 indicates that the director of the program in Cobb
17 County did not want to make an application for
18 funding and yet they were instructed they had to
19 have the facility visit anyway, and I'm just curious
20 about why that was?

21 A Even though -- even though I knew the
22 ultimate purpose of the exercise was to create this
23 basis for which GNETS program would apply for funds,
24 whether this was something I determined on my own or
25 felt like I had gotten direction on, it never

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1 occurred to me that not going through the needs
2 assessment was an option. You could go through the
3 needs assessment, and the needs assessment could
4 determine you've got the Taj Mahal, but you're going
5 through these --

6 Q Is it fair to say you just thought it was
7 important for the state to know the condition of the
8 assessments whether or not --

9 A Exactly.

10 THE COURT REPORTER: Say it again.

11 A My apologies.

12 Q Is it fair to say you thought it was
13 important for the State to know the condition of the
14 facilities whether or not they were planning on
15 applying for a grant?

16 A Yes.

17 Q Thank you.

18 MS. TAYLOE: Now I'm going to refer to
19 what was previously identified as Plaintiff's
20 Exhibit 46.

21 (WHEREUPON, Plaintiff's Exhibit-46 was
22 marked for identification.)

23 MS. TAYLOE: I have an extra copy but we
24 can use the same number for it.

25

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1 BY MS. TAYLOE:

2 Q This is a document produced by the State,
3 GA00196789.

4 It is an email from Mr. Rowland to Clara
5 Keith, dated January 19th, 2016.

6 Are you familiar with this document, Mr.
7 Rowland?

8 A Yes.

9 Q Do you see in the first paragraph, first
10 sentence says: "Below are GNETS facilities where my
11 staff have identified immediate concerns thus far,"
12 and it looks like it says, "They will be others, I'm
13 sure."

14 I assume it means "there will be others."
15 Right?

16 A Yes.

17 Q Would you tell me on what basis the
18 immediate concerns were identified?

19 A The checklist, that the, that the
20 consultants used on that initial visit.

21 Q And this is dated January of 2016. They
22 had completed the initial visits that early?

23 A I mean I can't dispute that. It may have
24 been. I just don't remember the timing, but
25 apparently -- and I -- typically, what would have --

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1 again, I don't remember the timing at all, but this
2 looks like it would have been consistent with that
3 first exercise of sending the consultants out with
4 the checklist and having them report back. Again,
5 you know, here's the list but here's three of them
6 that we see, that we got, that's a problem. That's
7 a problem.

8 Q Do you remember what was specifically
9 concerning about these three programs that were
10 identified as immediate concerns?

11 A I don't. Not without documentation. I
12 just don't.

13 Q Okay. And why did you say "there will be
14 others, I'm sure"?

15 A Just because I didn't have a complete -- I
16 just didn't have a complete list at that point.

17 Q Do you know what was done with this
18 information about these three facilities?

19 A No, I don't.

20 MS. TAYLOE: We've been going for an hour
21 and forty minutes. Would you like to take a
22 break?

23 THE WITNESS: Sure.

24 MS. TAYLOE: Take a break.

25 THE VIDEOGRAPHER: Off the record at 10:39

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1 a.m.

2 (A recess was taken.)

3 THE VIDEOGRAPHER: We're back on the
4 record at 11:10 a.m.

5 MS. TAYLOE: I have a correction to make.
6 The document I previously identified as having
7 been previously introduced as an exhibit was
8 incorrect.

9 So if we could mark the same document
10 GA00196789 as a new exhibit. I believe that
11 will be 116.

12 (WHEREUPON, Plaintiff's Exhibit-116 was
13 marked for identification.)

14 MS. TAYLOE: I apologize for my error.

15 So I just wanted to renumber that for the
16 record.

17 BY MS. TAYLOE:

18 Q You said, Mr. Rowland, you wouldn't be
19 able to recall from that long ago what the issues
20 were at those facilities without looking at the
21 document.

22 MS. TAYLOE: So I would like to introduce
23 State-produced GA00196790 to be marked as
24 Exhibit 117.

25 (WHEREUPON, Plaintiff's Exhibit-117 was

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1 marked for identification.)

2 BY MS. TAYLOE:

3 Q Are you familiar with that document, Mr.
4 Rowland?

5 (Witness reviews exhibits.)

6 Q What is that document?

7 A This is the Facility Condition Assessment
8 Checklist completed by the field consultant for the
9 Cedarwoods program at 98 Barnes Street, Baxley
10 Georgia, in Appling County, by Leonard McCoy.

11 Q Thank you.

12 Do you see where this document describes
13 the building -- I'm sorry -- the facility as a 1954
14 building with no major renovation in the past that
15 is evident?

16 That's in the comments on Page 4.

17 A Yes.

18 Q Do you see it says it's a 60-year-old
19 building that shows the wear and tear of its age and
20 it was constructed by prisoners?

21 That's in the Comments on Page 5.

22 I'm sorry, that's not the right page.

23 Page 6.

24 A Yes.

25 Q Do you see, I believe on Page 10, it talks

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1 about some toilets are missing doors and there is no
2 significant separation from the classrooms?

3 A Yes.

4 Q And on Page 11, in the Comments, it shows
5 that breakfast is satellited in and eaten in
6 classrooms, and that the students are transported to
7 high school for lunch?

8 A Yes.

9 Q Are those the kinds of things you think
10 raise the kind of concerns in the email that you --
11 that was previously admitted as an exhibit?

12 A I would think so, yes.

13 Q Previously, Exhibit 116, that was the
14 email?

15 A Yes.

16 Q Does that refresh your recollection as to
17 what was done in response to these concerns being
18 raised?

19 A Well, I think this was certainly -- I mean
20 this -- what I remember, this exercise was the
21 beginning of a process, and certainly, you know,
22 this information created a heightened awareness of
23 that particular facility, which I obviously
24 communicated to Clara, and there were obviously two
25 others that -- based on our preliminary review of

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1 that information.

2 But, again, I don't know that at the
3 moment -- I don't have any recollection of at the
4 moment this was produced and at the moment that I
5 sent out an email that said, hey, here's one we
6 obviously have concerns. I don't really -- without
7 -- I'm not aware of what, if any, immediate actions
8 were taken subsequent to the completion of the
9 process.

10 Q Okay. You said immediate. Are you aware
11 of any longer term actions taken?

12 A Well, again, that may have eventually
13 occurred at the conclusion of the process, but,
14 really, the documentation is so distant in my --
15 when I look at what you provide, I can put back the
16 chain. But I just can't remember -- you know, this
17 document obviously produced this email, which makes
18 sense to me, but I mean, what happened next is just
19 not fresh in my memory.

20 Q Okay. That's fine. We'll walk through it
21 with documents together then. Okay.

22 MS. TAYLOE: Next, I would like to refer
23 to what is previously introduced as Plaintiff's
24 Exhibit 89, which is GA00196895.

25 (WHEREUPON, Plaintiff's Exhibit-89 was

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1 previously marked for identification.)

2 BY MS. TAYLOE:

3 Q Are you familiar with this document?

4 (Witness reviews exhibit.)

5 MS. TAYLOE: Counsel, I just want to
6 notify you that his version has the
7 attachments, and your version doesn't. We can
8 share it electronically. I just want to know
9 that already has that attached.

10 MR. PICO PRATS: All right.

11 A Yes, ma'am.

12 Q This document is an email from Mr. Rowland
13 to Clara Keith, dated February 17th, 2016.

14 So, for the record, I have to ask this,
15 Mr. Rowland. You said: "It's late so I might not
16 have this correct. If this turns out not to be
17 correct, would you let me know?"

18 A Yeah.

19 Q I've been there. Believe me, I've sent
20 emails and just minutes ago made a mistake. I know
21 how that happens.

22 Okay. So it says: "The first spreadsheet
23 is the list of sites."

24 My younger and more adept colleague is
25 going to screen share for you because I cannot

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1 handle that.

2 MS. TAYLOE: Should with go off the record
3 for a minute.

4 THE VIDEOGRAPHER: Off the record at 11:23
5 a.m.

6 (Discussion ensued off the record.)

7 THE VIDEOGRAPHER: Back on the record at
8 11:24 a.m.

9 BY MS. TAYLOE:

10 Q So you have a paper copy but also Ms. Lill
11 is screen sharing an electronic copy of GA00196896.

12 Can you tell us what that document is?

13 It was attached to the email that we just
14 read.

15 A It appears to be a list of GNETS programs
16 that -- by location, the corresponding school system
17 name, and analysis as to whether the facility at
18 that location is a facility reporting FTE in the
19 LFP.

20 Q And is this list a list of the facilities
21 that were visited by the assessment team?

22 A Again, I, I really don't know that. I
23 mean if, if you -- if you showed me records of --
24 that corresponded, that this is a facility you said
25 the document showed was visited and there it is,

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1 then I certainly agree with that, but I just have no
2 way.

3 I mean these were so many facilities, so
4 many years ago.

5 Or if I said that they were visited in an
6 email. I certainly don't disagree with that.

7 Q Let's take a look at the next one then,
8 00196897.

9 A Okay.

10 Q In your email, you say: "The second is
11 the list of those not visited and why."

12 A Okay.

13 Q Can you tell me what that document is?

14 A Yeah. It's, it's a list of GNETS centers
15 with the city, and the -- no, they weren't visited
16 and the reason for why they weren't visited.

17 Q Thank you.

18 So does that information along with the
19 email lead you to believe that the first list is the
20 list of sites that were visited?

21 A Yes.

22 Q Thank you.

23 (Discussion ensued off the record.)

24 MS. GARDNER: You have an earlier copy of
25 the document that was marked, right? Because

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1 the hard copy document that was actually marked
2 included the printed attachments.

3 So if you all have your copies that you
4 received when we first marked it, it also has
5 the copies of as attachments.

6 (Discussion ensued off the record.)

7 MS. TAYLOE: I am going to give the court
8 reporter a document produced from the State
9 labeled GA00279624 and ask that be introduced
10 as Plaintiff's Exhibit 118.

11 (WHEREUPON, Plaintiff's Exhibit-118 was
12 marked for identification.)

13 BY MS. TAYLOE:

14 Q Are you familiar with this document?

15 A Yes.

16 Q This is an email from you to Ted Beck,
17 dated May 31st, 2016.

18 In the second paragraph you indicate that
19 you and Nakeba accompanied two teams from -- that
20 was 2WR, the architectural firm?

21 A Yes.

22 Q So were these the pilot visits you talked
23 about before?

24 A Yes.

25 Q Where it says: "The purpose of the trips

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1 was to work through expectations and get a baseline
2 of GaDOE's expectations."

3 Can you tell me what those expectations
4 were?

5 A I don't think we knew until we went on the
6 visit, honestly. But what I remember about the
7 exercise was that 2WR would go and conduct the visit
8 per some standards that were, that were available
9 for facility condition assessments based on
10 architect's stuff, and that what we were really
11 doing was just witnessing what they were doing to,
12 to understand -- to agree they were on the right
13 track.

14 I don't have any memory of saying don't do
15 this or do that, although that very well could have
16 happened. It was more of a -- they wanted us, you
17 come watch what we're doing. If you see anything
18 that you think we shouldn't be doing or should be
19 doing, you know, just give us the feedback.

20 That's my memory.

21 Q And where you said, "I think we will glean
22 the kind of information that will inform our
23 decisions moving forward," what was that in
24 reference to?

25 A I have no idea. I don't know. I think

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1 it's exactly what I -- I don't know what decisions
2 there were to be made moving forward, but if there
3 were decisions to be made moving forward, this
4 facilities condition assessment was necessary to
5 inform those decisions.

6 Now, obviously, we know one of those
7 decisions was to inform future applicants for the
8 grant but short of -- I mean that was the purpose of
9 the exercise, was to create a basis for these
10 centers, or programs, whichever it turned out to be,
11 to be able to make an application.

12 Q So one of the purposes would have been to
13 be able to notify the facility superintendent or
14 owner of the kinds of deficiencies they might be
15 eligible to request grants to repair?

16 A Yes.

17 Q Thank you. And they might -- they might
18 have been used for something else, but that may or
19 may not have been known at the time?

20 A Yes.

21 MS. TAYLOE: I'm going to give the court
22 reporter a document produced by the State
23 GA00197246 and ask it be identified as
24 Plaintiff's Exhibit 119.

25 (WHEREUPON, Plaintiff's Exhibit-119 was

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1 marked for identification.)

2 BY MS. TAYLOE:

3 Q Are you familiar with this document?

4 (Witness reviews exhibit.)

5 A Yes.

6 Q Okay. Who is Sarah Morris?

7 A Sarah worked, and still does, in the
8 Facilities Department.

9 I don't -- at the time -- she was with us
10 and she left and she came back. So what I'm
11 stumbling over is I'm not really sure what role she
12 was in at the time, but I do know that -- I think by
13 this point, you know, I was giving this information
14 back to Pat Schofill, who was our director, and
15 Sarah had some role to play on the funding side.

16 She was our grants administrator in the
17 early -- at some point, and she left the department
18 and we hired her back as a grants administrator. So
19 she may have had -- her role may have been in the
20 process of getting the money out to school districts
21 when -- or the entities that manage the GNETS
22 programs that were doing the work when the time
23 came.

24 Q Okay. And she said she's attaching the
25 list, GNETS list, ranked by the GaDOE Facilities

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1 team.

2 A Yes.

3 Q Is that -- which set of consultants is
4 that? Or who is the GaDOE Facilities team?

5 A That's the field consultants that I
6 referenced earlier.

7 Q Okay. And the scale she's referencing
8 there is the same one to five scale we talked about
9 before, where one is critical and five is new or
10 like new?

11 A Correct.

12 Q Then she talked about a formula for
13 obtaining a ranking. Can you tell me what that is
14 in reference to?

15 A Not by memory, no. I mean I -- so much
16 this -- you know, I want to be clear. Nothing would
17 make me happier than to tell you everything you're
18 asking me with perfect fidelity. There was so much
19 -- and so much of this now I'm begin -- I see -- we
20 were doing kind of make up -- just do it as you
21 figure out and try to do the best thing.

22 And so I am confident we used some formula
23 to get to that ranking. Whether it was an averaging
24 or a formula on a spreadsheet or -- but if you
25 showed it to me, I'd say I remember that. But

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1 without that, I just -- I don't remember what that
2 formula looked like.

3 Q Okay. I think I can -- I think I can find
4 one to address that.

5 MS. TAYLOE: I'm going to ask Ms. Lill to
6 screen share the attached facilities report,
7 which is GA00197248.

8 Do we need to mark that as an exhibit?

9 BY MS. TAYLOE:

10 Q Mr. Rowland, you have been granted control
11 of that. So if you want to scroll up and down on
12 that, you can.

13 Have you seen this document before?

14 A Yes.

15 Q Can you describe it, please?

16 A So the heading of the document is "GNETS
17 Facilities Not Active In Local Facility Plans."

18 So I mean this appears to me to be a list
19 of the GNETS programs that we couldn't find evidence
20 were housed in facilities that were in local
21 facility plans.

22 The cells highlighted in red, based on my
23 memory, was those locations that had a facility
24 condition assessment score of .4 or lower -- well,
25 lower than .4. Because .4 is not in red.

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1 Q And what would be the consequence of
2 having a facility score of lower than .4?

3 A Well, so I do -- let me say this about the
4 score. Given the decimal that I'm seeing -- I think
5 this is the score that came out of the facility
6 condition assessments done by 2WR.

7 So, again, my memory is part of what we
8 have asked them to do in this process was to see if
9 they could boil this down to a facility condition
10 assessment ratio where the closer that ratio got to
11 zero, the more deficient, let's say, the building,
12 the facility would be, and the clearer it got to
13 one, the better it was.

14 And so based on this, my memory is this
15 was a spreadsheet we created -- not the list of
16 spaces but the score coming from their condition
17 report.

18 And, again, at this point in the process,
19 I don't think I knew the answer to what does -- what
20 happens to a facility that has a condition
21 assessment lower than .4, other than to say these
22 aren't very good. And then that, that begets the
23 question, all right, what happens next.

24 I think that's where we were in the
25 process at that point.

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1 Q And you said before you believed that some
2 facilities were encouraged to consider options based
3 on those scores, consider remedial actions based on
4 the scores?

5 A Yes.

6 Q Okay. But is it not your understanding,
7 looking at this document, that these ones marked in
8 red were the ones that were closed by the State?

9 A Well --

10 MR. PICO PRATS: And objection for -- I
11 think it's misrepresenting what he said in
12 connection to the State closing.

13 BY MS. TAYLOE:

14 Q Did you understand these facilities closed
15 after the results were shared with them?

16 A I'm looking at the list to see, and it --
17 again, I wish I could tell you I remember what every
18 action was, but what I know is we shared this
19 information with the Board, State Board.

20 A letter went out to these facilities from
21 the State Board chairman, and it is my belief, my
22 memory, that in most cases, if not all, that these
23 programs made different arrangements for these kids.

24 There's a, there's a meaning to the word
25 "closed" that I'm not comfortable with, if that

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1 helps you understand my -- and I don't mean to be
2 vague. I just, you know -- the purpose of the
3 exercise to me was to say, you know, guys, look,
4 we've been through this process, nobody's out to
5 hurt anybody. We're trying to do things, what's
6 best for kids, and this has been -- this is the
7 situation.

8 And it is true that not many
9 superintendents liked to get phone calls from the
10 Department or letters from the State Board chair,
11 but -- so I know they wanted to try to do better,
12 and I think in most, if not all, of these cases they
13 did.

14 Q So maybe am I using the word "closed" has
15 been confusing because it has different connotations
16 and facilities than I was thinking of it.

17 Would you say after -- would you say these
18 nine facilities relocated their students after --
19 the ones that were marked in red relocated their
20 students after getting those reports?

21 A Yes, I think that's fair to say.

22 MS. TAYLOE: I would like to refer to what
23 was previously introduced as Plaintiff's
24 Exhibit No. 91.

25 I'm afraid I don't have a copy for you,

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1 because...

2 (WHEREUPON, Plaintiff's Exhibit-91 was
3 previously marked for identification.)

4 MS. TAYLOE: It's GA01486054.

5 (Witness reviews exhibit.)

6 BY MS. TAYLOE:

7 Q Have you had a chance to familiarize
8 yourself with this document?

9 A Yes.

10 Q Okay. This is an email from Stacey
11 Suber-Drake to Nakeba Rahming and Clara Keith, dated
12 July 25th, 2016. And it attaches a letter from the
13 Georgia State Board of Education signed by Michael
14 Royal, chairman of the State Board of Education.

15 Is that correct?

16 A That's correct.

17 Q Do you see at the end of the first
18 paragraph, where it says: "Therefore, students
19 receiving services at this facility must immediately
20 be transitioned out of the site before beginning --
21 "before the beginning of the school year."

22 A Yes.

23 Q Is that consistent with your understanding
24 of the steps that were taken after the facilities
25 conditions assessment was completed?

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1 A Yes.

2 Q It says: "We're directing staff to assist
3 you and provide guidance throughout this process so
4 it may provide the best educational opportunities
5 for all students in a safe and positive
6 environment."

7 You see where it says that?

8 A Yes.

9 Q Were -- which staff was directed to assist
10 and provide guidance to the -- the people these
11 letters were directed to?

12 A The facility services staff. Myself and
13 potentially field consultants that served those --
14 that area.

15 Q And would you say, was that assistance in
16 the form of the GNETS grant or in terms of
17 relocating, or both, or something else?

18 A At this time, in relation to the letter,
19 it was with relocating.

20 What we required of the GNETS programs was
21 when you find a suitable location, when you find a
22 location that you propose as suitable, you contact
23 me and I go look at it, and I say yes or no.

24 Q And did you also help them find facilities
25 that had available instructional units that they

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1 could consider using for --

2 A We did point out to them in their Local
3 Facility Plan where they had what we call unearned
4 instructional units.

5 Q So what does unearned instructional units
6 mean?

7 A Well, you earn instructional units based
8 on a formula, based on the FTE projected for that
9 facilities. And I'm just giving you example, making
10 numbers up.

11 You may have 750 FTE, and those FTE, based
12 on DOE's formula, may earn 50 instructional units,
13 which are classrooms. We call them IUs.

14 When the facility was constructed, it
15 might have been constructed with 60 IUs. So there
16 are 10 IUs that the formula says you have -- you
17 have fewer students than -- have more classrooms
18 than you have students, based on this formula, that
19 need.

20 Well, if you're a high school principal,
21 you don't have any vacant classrooms. I mean you
22 found something to do with all these spaces, but
23 they're not earned in the formula.

24 And so they're really at local expense.

25 Q That was very helpful.

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1 So they are not entitled to use the space
2 based on the number of students currently enrolled,
3 and so some people might look at those spaces
4 available even if they are using the space for
5 something else because why would you not use a space
6 that you have available in a room, in a school?

7 A The only -- not exception, but the word I
8 would take exception to, for lack of a better way to
9 say it, is entitled. They're entitled to every
10 space they have, because they built it, they own it.

11 The formula for funding in DOE's rule says
12 that you earn spaces based on the way you earn
13 teachers in the QBE formula, the theory being that
14 every teacher that you earn should have a space.

15 But just like you have unearned spaces in
16 your facility, most school systems have unearned
17 staff for programs that are beyond what the State
18 will fund.

19 So in that regard an unearned space
20 doesn't mean that there's not a program that's being
21 taught in that space because the district has chosen
22 to fund that program locally. Teacher --
23 theoretically the space, because there's no state
24 earning based on that space, which is kind of a
25 little complicated, too.

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1 But my point is, what we try to do is go
2 back to the school systems and say, look, you have
3 -- we didn't have to say this. We could say it,
4 point it out but they knew it. They could look at
5 their plan and know this on their own.

6 You have schools that have unearned
7 spaces. And so obviously one of your options is to
8 pick the kids up and move them to a better space, or
9 you could just use space you already have.

10 But that's your -- that's where we really
11 get into what you have to do at that point.

12 MS. TAYLOE: I would like to introduce a
13 document produced by the State as GA01929308
14 and ask it be marked as Plaintiff's Exhibit
15 120.

16 (WHEREUPON, Plaintiff's Exhibit-120 was
17 marked for identification.)

18 BY MS. TAYLOE:

19 Q Let me know when you've had a chance to
20 familiarize yourself with the document.

21 (Witness reviews exhibit.)

22 A Yes.

23 Q This is an email from you to Clara Keith
24 and Nakeba Rahming and Pat Schofill, dated January
25 20th, 2017.

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1 Do you see where in the first line it
2 makes reference to the final GNETS report from the
3 drop box location?

4 A Yes.

5 Q Is it consistent with your recollection
6 that this would be the time when the architects --
7 the 2WR final report was prepared?

8 A Yes.

9 Q And would that be the report that was
10 located in the drop box?

11 A Yes.

12 Q Can you describe what, what the -- was the
13 drop box a file sharing system or what was that?

14 A They provided -- what I remember is that
15 they provided the file in an aggregate format. In
16 other words, as one report with all of these numbers
17 of facilities, which became many, many pages,
18 hundreds of pages. And so we used the drop box
19 because the file was too large to share any other
20 way.

21 Q That makes sense.

22 It says here you're in the process of
23 disaggregating it so you can send each report to
24 each facility as appropriate?

25 A That's right.

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1 Q I also saw reference to a U-Drive. Do you
2 know what the U-Drive is?

3 A Yes. You asked me what it is?

4 Q What's the U-Drive, please?

5 You're well coached.

6 A It's a shared drive at the Department of
7 Education where we housed shared facilities files.

8 MS. TAYLOE: I just wanted to note to
9 counsel we've seen references to this final
10 report in a drop box in U-Drive, but I have not
11 been able to locate it in the documents that
12 have been produced to us.

13 So perhaps we could be directed to it. If
14 not, I would ask that it be -- production be
15 supplemented so we can see the final report.

16 It might be we just can't -- we can't find
17 it.

18 I'm about to start on a new section. I'm
19 happy to keep going but depending on the time
20 we set for lunch, perhaps it's better we stop
21 now.

22 MS. LILL: It's not here yet. It should
23 be here in the next 15 to 20 minutes.

24 MS. TAYLOE: We can just start then and
25 take a break.

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1 BY MS. TAYLOE:

2 Q Are you okay going a few more?

3 A Absolutely.

4 Q I want to talk a little bit about the
5 facilities remediation plan next that came after the
6 facilities condition assessment. Is that correct?

7 A Yes.

8 Q Can you tell me -- just give me an
9 overview what the facilities remediation plan was?

10 A Yeah, I had really forgotten about that.
11 Again, what I remember was that -- and I
12 wish I could tell you that we started this process
13 knowing how it would -- this was, this was really
14 like building an airplane while you fly.

15 And so at some point as a team -- and
16 there was -- I don't want to mislead you I was
17 making these decisions in a vacuum. I was obviously
18 working with either Pat Schofill, maybe our
19 facilities consultants, Clara, Nakeba, and Stacey
20 and all these people to think about.

21 So we have this report now that says -- it
22 kind of had layers. Layer one -- the first, most
23 immediate thing was we found these facilities that
24 were -- that needed immediate -- that needed
25 immediate attention, needed to be attended to

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1 immediately. And that took place.

2 Then we had a report that said here's a
3 condition of the facilities that remain, and when we
4 release the application for funding, you should be
5 applying for needs that have been identified in the,
6 in the plan -- or in the facility condition
7 assessments.

8 Understand that in the facilities world,
9 \$14 million is not a lot of money. So intuitively
10 we knew it wasn't enough money to meet all the needs
11 that had been identified in the condition
12 assessments, but we took the position as a
13 department that that didn't absolve the programs
14 from developing plans to remediate those needs.

15 Again, very much in keeping with the K-12
16 focus on you have a Local Facility Plan. You can't
17 get to everything in it in one year, we know that,
18 but that doesn't mean you shouldn't be -- you
19 shouldn't be planning to meet those needs.

20 So, so -- so part of the requirement was
21 now that we've done this work, you can't just say,
22 well, we want to apply for the money, so we're off
23 the hook. No. You have a report and it shows
24 deficiencies -- needs, not deficiencies. It shows
25 needs. We want to know how you're going to address

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1 those needs.

2 Q So would it be fair to say that the
3 options available to facilities after receiving the
4 facilities condition assessment report included
5 relocating the students or submitting a plan to make
6 corrections, addressing needs with or without state
7 grant funds?

8 A Yes.

9 Q And if the facility operators chose not to
10 continue to serve the students in that facility,
11 were they required to provide you with an exit
12 strategy?

13 A Yes.

14 Q And what would that exit strategy entail?

15 A It would be different for every situation.
16 Again, I think what our -- it's really hard to
17 remember the thinking at the moment, but based on
18 the way I know myself, what I would -- what I think
19 we were looking for is, look, you give us -- one of
20 the things I want to make sure you understand. This
21 is an awful lot of work, and at some point I thought
22 it was all my work to do. By me, I mean the
23 Department.

24 So what I wanted to do is give this work
25 back to the people at the ground floor who ought to

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1 know how to look after their kids better than
2 anybody else, and the way to do that is to say you
3 give me the strategy -- again, me meaning the
4 Department -- give us the strategy and then we'll
5 react to it.

6 So it wasn't -- and my, my belief is that
7 ranged anywhere from that's an excellent strategy to
8 that's okay but here are some -- here's some
9 feedback like to see you address, and all the way
10 down to that's not going to work, got to have
11 another one.

12 And I just -- I don't remember
13 specifically -- I mean if you showed me a document
14 and said here's one that was submitted, I could look
15 at it and say, yeah, that makes sense.

16 But, but I think we as a Department felt
17 like while we may have started out trying to get a
18 condition assessment so that we could figure out how
19 to competitively award a pot of money, it really
20 evolved into, okay, now you can't not know what you
21 know, how we're going to address it.

22 Q Okay. Before -- and I will go through
23 some documents with you to address specific
24 examples, but as part of that overview, after
25 facilities either applied for a grant or proposed

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1 their own internal repairs, did your office check up
2 to see whether those repairs were done?

3 A I did not do that personally. And I -- my
4 memory is that, you know, all of this took a little
5 time. Not -- obviously, not just the assessments,
6 but applying for the money, evaluating the
7 applications, making the awards. There are --
8 there's all kind of bureaucracy that occurs.

9 These were reimbursement grants. So the
10 district had to spend the money first, send the
11 Department evidence of the work they had done and
12 the money they had spent. The Department had to
13 evaluate the evidence against the application to
14 make sure that they were parallel, and then the
15 Department would free the money.

16 So now ask me the question again.

17 Q That was responsive. I want to follow up
18 on your answer, though.

19 When they produced evidence, was that a
20 bill that showed they had done it, or was it also
21 photographic evidence or a narrative description of
22 what they had done?

23 A It was -- the evidence would be contracts
24 with the architect to design the change, the
25 changes; contract with the contractor who was

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1 performing the work; pay apps from the contractor
2 that showed the schedule of values and the payment
3 for each payout; and then a close-out document at
4 the very -- and so the way DOE manages these grants
5 is we, we reimburse 90 percent of what you are
6 awarded until what we call final close-out.

7 So -- and keep in mind that very much like
8 these -- very much like grants to K-12, K-12 capital
9 outlay, I know there were some applications where
10 the scope of work exceeded the amount of money that
11 they were going to get. So there was theoretically
12 local money in these projects as well as state funds
13 in kind of a parallel fashion to the way K-12
14 capital outlay works.

15 Although that might not have been true in
16 every case, it was true in some.

17 So all of that documentation had to be
18 provided. And then at close-out, which was the
19 final attestment that there were no liens against
20 the property and all the bills had been paid and all
21 the contracts had been met, and the fiscal agent for
22 the GNETS program had to attest to that, then they
23 would get the final 10 percent.

24 What I don't think we did in this case and
25 what we didn't do, as routinely in K-12 capital

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1 outlay, is go out and do a physical inspection to be
2 sure -- to ensure that what you said you did in your
3 application and what you submitted through all this
4 paperwork, that it all -- we put our eyes on it.

5 I worked for the Department 10 years.
6 Now, that's not -- and that was not routine. Now,
7 that's not to say Fulton County built a new school,
8 we went through the process, they did all the
9 documentation, and they invited us out three weeks
10 after it opened and we went to look.

11 But you didn't walk through with a notepad
12 checking things off. I mean that just wasn't --
13 that's not how it worked.

14 Q And for those who didn't apply for grants
15 but submitted plans that said they were going to
16 make the adjustments or address the needs
17 themselves, was there any follow-up process on
18 those?

19 A I'm not aware of that. There may have
20 been because, again, like I said, toward -- this was
21 really toward the end of -- I mean it wasn't. It
22 was a few years left in my career, but I think I can
23 say this: I certainly did not go out and inspect a
24 particular facility against what their plan was to
25 see if they met those conditions.

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1 Q You're not aware of the field consultants
2 doing that either?

3 A I'm not. I don't want that to be
4 interpreted it didn't happen. It's just not
5 something that I recall.

6 Q Okay. And then what about, were there
7 districts who couldn't front the money and wait for
8 reimbursement? What happened when that happened?

9 A I'm not aware of a -- you asked -- let me
10 answer the question you asked first.

11 I'm sure I don't know the answer to the
12 question, were there districts that couldn't front
13 the money.

14 I know there were districts that didn't
15 think they could, didn't feel like they could, but
16 I'm reasonably certain that -- well, I'm almost a
17 hundred percent certain that the Department never
18 sent out money without documentation that the bills
19 had been paid because, again, my memory is these are
20 funded with state tax exempt general obligation
21 bonds that are reimbursable. So the bond rules
22 required that the districts pay for -- pay first,
23 demonstrate payment, before they were reimbursed.

24 Q What's the timeline for the exit strategy
25 and remediation plan?

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1 A I'm not sure I understand.

2 Q It takes a while for bonds to get in place
3 and budgets have already been made. If they were
4 provided information about needs that needed to be
5 addressed on a short timeline, that would be harder
6 to fine the funds for than a longer timeline?

7 A Yeah. Well, the scope on the bonds is
8 five years. So these are 20-year bonds but, but --
9 and I do know this: You would have to remind me of
10 the fiscal year in which this took place, but
11 typically the way the bonds worked, and I may have
12 said this earlier, was once we got a signed budget,
13 April or May, GSFIC manages the bond sale, and at
14 that time it usually took place August, July time
15 frame, and there was usually one bond sale a year.

16 Now, the reason I bring that up is my
17 early days with the Department they were doing two
18 bond sales a year. So when you were managing cash
19 flow, you can say, well, I don't think we're going
20 to be ready -- we know the GNETS programs aren't
21 going to be ready for their money for, let's say, 24
22 months, because of the process we're going through.

23 So instead of asking GSFIC to sell those
24 bonds, we'll delay the sale of those bonds for maybe
25 a six-month period, just a -- just with cash flow.

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1 But at that point we were only doing one
2 bond sale a year. So I know that the 14 million was
3 sold in the bond sale subsequent to the passage of
4 that, of that budget.

5 So typically if the bonds are sold in
6 July, by the time they close on the sale and letters
7 of commitment and a bunch of other bureaucratic
8 stuff takes place, that I really had no role in, you
9 can reasonably expect money to be available in the
10 September, October time frame.

11 So, so -- so the life of -- but the
12 arbitrage rules on the bonds were that you really
13 had to have reimbursed a hundred percent of the
14 proceeds within five years.

15 Q So I just want to make sure I understand
16 what that means for the facilities themselves.

17 Does that mean facilities who received
18 notice in, say, July of 2016 about needs identified
19 through the facilities conditions assessment, did
20 they have two years or five years? How long did
21 they have to make the changes that were needed?

22 A I don't, I don't -- I don't know how to
23 answer that question finitely.

24 I think what was -- what practically
25 happened was, and again this was not something that

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1 I had a hand in directly, that I remember, but as
2 these awards were made one of the things the
3 districts had -- or the entity had to provide to the
4 state is tell us when you're going to start your
5 project.

6 And so I know that there were, there were
7 people back-checking to see where are you in that
8 process, and I really don't know who they were. I
9 know it wasn't me. At that point I wasn't really
10 involved in that.

11 And keep in mind, again, by the time you
12 go through the application process, make the award,
13 engage an architect -- because these, these projects
14 -- it's not like remodeling your bathroom at home.
15 You know, you hire an architect, individual to have
16 plans drawn. Those plans have to be submitted to
17 DOE, because we have architects on staff that review
18 them. Those architects are reviewing those plans to
19 make sure that what that architect has submitted on
20 the school's behalf matches what you said you were
21 going to do in your application. It can do more but
22 it's got to at least do that. And that has an
23 approval process.

24 All of that takes place before you can
25 even bid the project. Then bidding takes two to

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1 four weeks -- two to four months.

2 So, so depending on the scope of work in a
3 particular application, it wouldn't have been
4 unreasonable to have been awarded a grant and not
5 really started the project for 24 months.

6 Q Okay.

7 A Now -- well, leave it at that.

8 Q Thank you. That was helpful. That was
9 helpful.

10 MS. TAYLOE: Okay. I am going to give the
11 court reporter a document produced by the State
12 GA01486553, and ask it be marked as Plaintiff's
13 Exhibit No. 121.

14 (WHEREUPON, Plaintiff's Exhibit-121 was
15 marked for identification.)

16 BY MS. TAYLOE:

17 Q Let me know when you've had a chance to
18 familiarize yourself with it.

19 (Witness reviews exhibit.)

20 A Yes, ma'am.

21 Q This is an email from you to Kerri Miller
22 and David Mosely, dated February 24th, 2017.

23 Is that correct?

24 A Yes.

25 Q And can you tell us who Kerri Miller and

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1 David Mosely are?

2 A David Mosely was the superintendent of the
3 Dougherty County schools, and I'm guessing Kerri
4 Miller was the director the GNETS program.

5 Q So is this -- is it fair to say this is --
6 MS. TAYLOE: Well, strike. Let me start
7 over.

8 BY MS. TAYLOE:

9 Q This document was sent to Dougherty
10 County, and it's a list of the attachments,
11 including Executive Summary, the completed report
12 for their location, Cost Summary and facility
13 condition score, and Letter of Assurance. Is that
14 correct?

15 A Yes.

16 Q Is this typical of the kind of letters
17 that were sent to each of the GNETS facilities
18 programs?

19 A Yes.

20 Q Did you read the executive summary when it
21 was produced?

22 A Yes.

23 Q We'll come back to that.

24 And then this says a conference call will
25 be held on Wednesday, March 1st.

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1 Was this an opportunity to discuss the
2 remediation plan and exit strategy and options for
3 relocation that we were just discussing?

4 A No.

5 Q What was that meeting for?

6 A It was simply to give out information.

7 This, this was the -- well, this was the
8 culminating activity, I referenced previously in an
9 email, breaking these things down into their
10 individual components. And so what this was -- once
11 we got to that point, we sent an email to every
12 school district -- every entity that had a program,
13 like you said, and it had a -- it had these
14 attachments with it.

15 The purpose of the phone call -- I'm not
16 suggesting there wasn't a question-and-answer
17 period. There was. I know there was. But the
18 purpose of the call wasn't for you to talk to us
19 about your exit strategy. It was -- or your
20 remediation plan.

21 This was giving you out the information,
22 letting you know that, you know, there will be
23 additional information coming forward in the future,
24 which I think it refers to including the process for
25 actually making the application -- or that may have

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1 actually been included in this.

2 But you got -- I think I remember
3 structuring this thing in such a way so that we set
4 aside a period of time -- this is back in the day --
5 this was long before we were doing
6 videoconferencing. So this was your good
7 old-fashioned conference call, and just trying to
8 manage however many participants there were on the
9 call. It's, guys, this is for information. If you
10 got a few technical questions specific to what we've
11 given you, I'll be glad to answer them, but we're
12 not going to get bogged down in a lot of other
13 stuff.

14 So it was really that kind -- that's my
15 memory, it was that kind of call.

16 Q That makes sense. I didn't mean to
17 suggest it was a time for them to present their exit
18 strategy, but it was a time for you to outline the
19 process ahead in terms of their options and the kind
20 of process that might follow?

21 A I think that's right.

22 Q Okay.

23 MS. TAYLOE: I'm going to introduce the
24 document produced by the State GA0186 -- I'm
25 sorry. I did that wrong.

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1 GA01486555. And ask it be introduced as
2 Exhibit No -- Plaintiff's Exhibit No. 122.

3 (WHEREUPON, Plaintiff's Exhibit-122 was
4 marked for identification.)

5 BY MS. TAYLOE:

6 Q Do you recognize this as the Executive
7 Summary that you indicated you read when you
8 received it?

9 A Yes.

10 Q And do you see on -- the second page of
11 the document is marked as Page 12.

12 A Okay.

13 Q Where it says Executive Summary.

14 Do you see -- let me see if I can find it.

15 The end of the first paragraph where it
16 says: "Some structures dating back to the 1920's, a
17 large number of facilities were constructed in the
18 1960's and 1970's, many of these had major
19 renovations and additions in later decades."

20 Do you see that?

21 A Yes.

22 Q The next sentence says: "Most of these
23 facilities were older mainstream schools where the
24 student body had been relocated to newer
25 facilities."

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1 Do you see that?

2 A Yes.

3 Q Is that your understanding, that that was
4 a common occurrence in the way GNETS programs were
5 located?

6 A Yes.

7 Q Do you know why that is?

8 A No.

9 Q I just want to back up for a second. We
10 talked before about how the inspection was a
11 visual-only inspection --

12 A Right.

13 Q -- before?

14 A Right.

15 Q So would I understand from that that they
16 did not do checks for asbestos?

17 A Yeah. I think that's true. Because we
18 had a lot of discussion about whether to do that,
19 and I think the answer was that we didn't do any
20 specific asbestos testing.

21 Q Would that also mean there was no checking
22 for lead paint?

23 A Yes.

24 Q And how about ventilation system, there
25 would be some that would be visible but some that

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1 would be not?

2 A Yeah. I mean -- they would -- you might
3 remove an air filter cover, for example, and inspect
4 the air filter to see if it had been changed.

5 There was some ductwork probably that you
6 could get to and see without necessarily having to
7 go behind a wall or into a ceiling, depending on
8 some of them may have been exposed.

9 But other than knowing the --
10 theoretically, they could determine what year the
11 HVAC system had been installed.

12 Q How about lead in the water?

13 A No, no -- no.

14 Q Or radon or any other kind of exposure
15 like that?

16 A No.

17 Q Okay. Are those known to be -- with the
18 exception of ventilation, are the things I listed
19 known to be more common in older buildings?

20 A Yes.

21 MS. TAYLOE: I'm going to introduce a
22 document from the State GA00198597, and ask it
23 be marked as Plaintiff's Exhibit No. 123.

24 I'm sorry, that one has been already been
25 marked as Plaintiff's Exhibit 88. I'm sorry.

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1 (WHEREUPON, Plaintiff's Exhibit-88 was
2 previously marked for identification.

3 MS. TAYLOE: I apologize.

4 (Witness reviews exhibit.)

5 A Okay.

6 Q This is an email from you dated March
7 30th, 2017 to a number of email recipients.

8 Can you identify the recipients by
9 category?

10 A Obviously, it went to -- I think what I'm
11 looking at is GNETS directors and superintendents.

12 Q And can you -- it says you're asking for a
13 letter of assurance for the facilities grant
14 application process.

15 Can you describe the role of the letter of
16 assurance?

17 A Again, if you, if you put one in front of
18 me, I can certainly remember what it looked like,
19 but I think the intent was instead of creating this
20 methodology where the State would say here's what
21 you have to do, and we're going to come by and
22 visually inspect it, there was a methodology of
23 creating a list of things that these people, as the
24 fiscal agent and head of the school system, people
25 with authority, would have to attest to that you had

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1 done these things.

2 And I do not remember what was on the
3 list. And if I saw it, I might have a different
4 opinion about what its intent was but that's
5 typically what you use a letter of assurance for.
6 Instead of me saying you did it, I want you to say
7 you did it.

8 Q Okay. I think this is a different one,
9 because this is in advance of the --

10 A Was this the one saying they intended to
11 apply or not apply?

12 Q Yes.

13 A Okay. Well, again, if you show it to me,
14 I might have a different answer. But I think --
15 there were two things -- so that sets up two
16 thoughts in my mind: One was we were trying to find
17 out who's going to apply and who's not. And perhaps
18 that's what this -- that's this letter was about.

19 But I think later on, and as part of the
20 application, there was a letter of assurance, too.
21 Although I might be misremembering that.

22 Q All right. I'm going to -- I don't have
23 copies but we can -- it will help you to see the
24 document?

25 A Yeah.

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1 Q So you have it attached to your.

2 A Okay. I got it.

3 Q 00198599.

4 MS. TAYLOE: If you can pull it up so
5 counsel can see it.

6 A Yeah. So I think this is -- this is
7 pretty much what I remembered.

8 I mean the letter of assurance had, had --
9 the first thing it wanted to know was, you know, if
10 you return this, you're telling us you intend to
11 make an application for these funds, and if you
12 intend to make an application to these funds, you
13 attest to these eight things.

14 That you need to either understand, will
15 do, comply. This is where, you know, you understand
16 that it's a competitive award, so you could, you
17 could not get anything. You understand you have to
18 comply with all the State and federal laws and State
19 Board rules and guidelines that go along with it.

20 The grant is a reimbursement grant. So
21 everybody knew that up front. If you don't think
22 you have the money up front to pull off the project,
23 don't apply.

24 You agree -- one of the issues we ran into
25 is, okay, if we give you this money and you

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1 refurbish this facility, what's the requirement for
2 how long you're going to stay in it. So that period
3 was established, that 10 years.

4 And these other things that are listed
5 there.

6 Q The 10-year one was the one I wanted to
7 ask you about.

8 A Okay.

9 Q Because I understand like fiscally it
10 makes sense you wouldn't want to invest a lot of
11 money and then have the building abandoned the next
12 year. I understand that's the intent behind it.

13 Were you aware of any concerns by
14 superintendents or programs that they couldn't be
15 sure they would be in there for 10 more years, or
16 that it restricted their flexibility in any way?

17 A Well, what we tried to do was, was cover
18 that in that sixth point by saying in the event it
19 becomes necessary to move a GNETS program from the
20 facility from which the grant was expended, you just
21 have to get prior approval from the Department.

22 I don't think -- I mean certainly
23 everybody understood that, that -- you know, there's
24 a lot of uncertainty in education when it comes to
25 facilities, particularly as programs evolve.

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1 So I think we tried to leave -- I wouldn't
2 really call it an out, but at least leave the
3 applicant with the understanding that, look, if you
4 in good faith take the money, if you in good faith
5 do the work, if you in good faith plan to stay there
6 for 10 years, and three years in something happens
7 that requires -- you think necessitates a move, just
8 get with us and let's work through it. We'll work
9 through it somehow.

10 Q Did you have any ideas or discussions
11 about what would account for viability? Or
12 viability is a different letter. I'm sorry.

13 Becomes necessary, what would qualify as
14 necessary to move a GNETS program?

15 A I'm sure we did. I don't remember what
16 those specific conversations were, but I can tell
17 you in my own mind, from my own experience, but...

18 Q What would you think those would be?

19 A Well, I mean most --

20 MR. PICO PRATS: Objection, as far as it
21 causes him to speculate about it.

22 MS. TAYLOE: He just said he could say
23 from his own experience.

24 MR. PICO PRATS: You can answer.

25 A Well, I mean if GNETS operates the way

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1 it's supposed to, you're really supposed to try to
2 transition these kids back into the regular
3 environment. So if you're a small school system
4 with a small population and you were successful with
5 every kid, theoretically you wouldn't have a need
6 for a program.

7 Now, I mean, that -- all the way -- for
8 that to -- you know, we were in this facility but we
9 have an opportunity to get one that's even better.
10 Or there's a place for these kids now that wasn't
11 available before that gives them, gives them access
12 to things, to programs that they don't have access
13 to there, and the school wants to make that
14 decision.

15 I think the real issue for me in doing
16 this was I don't, I don't -- I don't want to sit
17 around and think about and make up all the things
18 that a school system can be faced with in trying to
19 figure out how to look after their children. That's
20 what they should do. But when they do, what I think
21 what we ought to be good at is listening to them and
22 apply common sense as to whether that would be
23 something we could support.

24 Q So if the Department of Education felt
25 they had a good reason for relocating the students

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1 or stopping using a facility that's been renovated,
2 the Department of Education could grant that
3 request?

4 A I think so, yes.

5 Q Thank you.

6 MS. TAYLOE: Now a good time for a lunch
7 break?

8 MR. PICO PRATS: Sure.

9 MS. TAYLOE: Thank you.

10 THE VIDEOGRAPHER: We're off the record at
11 12:38 p.m.

12 (A recess was taken.)

13 THE VIDEOGRAPHER: We're back on the
14 record at 1:28 p.m.

15 MS. TAYLOE: All right. I'd like to pick
16 back up with exhibit -- a document produced by
17 the State, identified as GA01488731, and I
18 would ask it be marked as Plaintiff's Exhibit
19 123.

20 (WHEREUPON, Plaintiff's Exhibit-123 was
21 marked for identification.)

22 (Witness reviews exhibit.)

23 A Okay.

24 Q This is an email from you to a number of
25 recipients dated March 14th, 2017.

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1 Could you identify by category who the
2 recipients are?

3 A It looks like the recipients are recent
4 directors and local superintendents.

5 Q Is that similar to the one we discussed
6 before about the upcoming call?

7 A Yes.

8 Q And this references a recent conference
9 call. Would it be your best recollection that this
10 is follow-up to that same call, March 1st?

11 A Yes.

12 Q So would it be correct to say that this
13 email references responses to questions that were
14 raised by the RESA personnel and the superintendents
15 following that call?

16 A Yes.

17 MS. TAYLOE: And then I'd like Ms. Lill to
18 pull up to the attachment to that because I
19 don't have it in paper form.

20 It's GA01488733.

21 BY MS. TAYLOE:

22 Q Ms. Lill will give you control of the
23 document so you can scroll if you want.

24 Could you describe this document for me,
25 please?

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1 A This appears to be the frequently asked
2 question document that was generated from questions
3 we received subsequent to the conference call.

4 Q This was sent out under the signature of
5 the Georgia School Superintendent, Richard Woods; is
6 that correct?

7 Maybe signature is not the right word.
8 It's on his letterhead?

9 A Yeah, yeah.

10 Q But it was issued by his office,
11 presumably?

12 A I think it was issued by the Facility
13 Service Office on State letterhead.

14 Q So that's your office?

15 A Yes -- well, yes.

16 Q At the time, yeah. Okay.

17 Did you prepare these responses to
18 frequently asked questions?

19 A I may have contributed to them, but my
20 recollection is it was a team effort.

21 Q Who else do you think would have been on
22 that team?

23 A Pat Schofill, perhaps Sarah Morris.

24 Q The answer to frequently asked Question
25 No. 3 says, "The number of students served in a

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1 GNETS facility will not impact grant applications."

2 Can you explain how that is?

3 A I mean you may have had a facility that
4 served 50 kids and you may have had a facility that
5 served three kids, and the question appears to be if
6 I have three kids in my facility, can I still apply
7 for the money, and the answer is yes.

8 Q If someone looked at it more in the sense
9 of does it make sense to invest, you know, \$500,000
10 worth of renovation funds in a facility that serves
11 three kids, would that be a factor?

12 A You know, I don't, I don't -- that may
13 certainly have been discussed but I would think that
14 our intent was to say, look, send us your proposal.
15 Let's don't react to it up front with you can only
16 apply if you have a certain number of kids. Send us
17 what you're proposing and we'll react to it.

18 Q Okay. And Response No. 1, would it be
19 fair to say that's a fair and accurate description
20 of the general procedure anticipated for the grants
21 proposal process?

22 A Yes.

23 Q I actually want to correct myself there.

24 If it's for a facility that is not
25 requesting a grant, is that the process for them to

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1 follow?

2 A Yes.

3 Q And then in Response No. 7, there's a
4 reference to a 50 percent match.

5 We talked earlier about local districts
6 had to contribute some of the money and the state
7 fund contributed some. Is that what that reference
8 is to?

9 A Yes.

10 Q So the states had to provide 50 percent --
11 had to match whatever the -- I'm sorry.

12 The local districts had to match whatever
13 the State contributed towards the project?

14 A Yes.

15 Q Then in response to Question No. 9, we
16 talked a little bit briefly about the structure of
17 GNETS, and I can't exactly remember your answer, so
18 I'm going to ask a question that may be duplicative.
19 I'm sorry.

20 Are you aware of some GNETS programs that
21 serve students from multiple school systems?

22 A Yes.

23 Q Is that what this Question 9 is
24 addressing?

25 A Yes.

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1 Q Could you explain what was contemplated
2 that the collaboration would be between districts
3 that are sending students to a joint program?

4 A If, if -- let's say the grant was for
5 \$100,000 and the State is going to give you 50 and
6 you have to come up with 50, and you -- the GNETS
7 program serves five school districts in a facility
8 located in a single district. Then it would be up
9 to the five districts to determine what -- how that
10 \$50,000 local match, that 50 percent local match,
11 would be administered to the five districts.

12 Q So, for instance, some might decide it
13 would be shared equally and some might do it based
14 on the number of students referred or served by the
15 GNETS program?

16 A That sounds reasonable.

17 Q And it was up to them to work that out.

18 Do you -- are you aware of any facilities
19 -- I'm sorry. I knew I was going to trip up on
20 these words at some point.

21 Are you aware of any programs that chose
22 not to continue to send their students to an out of
23 county program at this point?

24 A Yes.

25 Q And why was that?

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1 A I really don't know what -- I can't
2 speculate on what decisions local districts were
3 making and why they were making them, but I do know
4 that some districts decided to serve their kids at
5 home.

6 Q That's fair. How did you come to know
7 that that decision had been made?

8 A Feedback we got from the GNETS programs
9 and the local districts.

10 Now, it could have been an email. It
11 could have been a phone call.

12 Q They just reached out and voluntarily told
13 you that was their plan?

14 A Yeah.

15 Q Okay. It may have -- could it have come
16 up in connection with a facility, like if they said
17 we weren't sending them there anymore, so we need to
18 visit this facility instead of a site visit? Could
19 it have come up like that, too?

20 A Ask me that question again.

21 Q If some counties had decided not to send
22 their GNETS eligible student to a program that
23 serves multiple counties but instead we're going to
24 serve them in their own, within their own county,
25 might they have needed to reach out to your office

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1 to have an assessment of the facility they intended
2 to move them into instead?

3 A Yes.

4 MS. TAYLOE: Now I'm going to refer to
5 another document that was previously marked as
6 Plaintiff's Exhibit 87.

7 (WHEREUPON, Plaintiff's Exhibit-87 was
8 marked for identification.)

9 MS. TAYLOE: Since I don't have copies of
10 it, Victoria, can I ask you to --

11 MS. LILL: Just read the number.

12 MS. TAYLOE: GA01488847.

13 (Witness reviews exhibit.)

14 A Okay.

15 Q Okay. This is an email from you to Clara
16 Keith and Stacey Suber-Drake and Pat Schofill, dated
17 April 20th, 2017. Is that correct?

18 A Yes.

19 Q And it's a -- that date is a culmination
20 of some email threads with various drafts of the
21 facilities grant application form. Is that correct?

22 A Yes.

23 Q Who -- who worked on finalizing this
24 document?

25 A Based on the email I wrote, I would say

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1 that was me, Clara, Stacey, Pat, Sarah, Nakeba.

2 Q We talked before about Clara had been
3 between -- had been at times both -- not both.

4 At different times had been at the
5 Department of Education and had been at times at
6 DBHDD. Here she has a DBHDD email address. Does it
7 make it seem likely she was employed with the
8 department of -- DBHDD?

9 A Yes.

10 Q Do you know why that department was
11 involved in this process?

12 A I really don't.

13 Q Then the attachment, which I believe is
14 included in your document, but for the record I'll
15 state, in case it's a separate document, is
16 GA01488851.

17 Do you see that?

18 A Yes.

19 Q What is that document, please?

20 A It is the GNETS facilities grant
21 application and instructions.

22 Q Is that the final version?

23 A It appears to be, yes.

24 Q Do you know who else from Georgia
25 Department of Education and GNETS staff participated

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1 in the process of reviewing this application?

2 A I mean I really can't remember. It was
3 obviously meant to be a team effort. I was
4 depending on a number of people to review this with
5 input, and based on the email, I know those people.
6 But if there were others, I just don't remember.

7 Q So are you saying the people who are on
8 this email chain were involved in the process, and
9 there may have been others as well?

10 A Yes.

11 Q There may have been?

12 A May have been.

13 Q Thank you.

14 MS. TAYLOE: I'm going to have another
15 document from the state, GA0148 -- I'm sorry,
16 that was the one we just did.

17 It was separate on mine, but it's included
18 in his. Okay.

19 So this one is GA00132718. So this will
20 be Plaintiff's Exhibit 124.

21 (WHEREUPON, Plaintiff's Exhibit-124 was
22 marked for identification.)

23 (Witness reviews exhibit.)

24 A Okay.

25 Q This is an email from you to Mark Morgan,

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1 sent on November 8, 2017.

2 Can you tell me who Mark Morgan is,
3 please?

4 A I'm going to assume that it's the
5 superintendent, but I don't know that for sure.

6 Q Can I say superintendent of Berrien
7 County, based on the email address?

8 A Yes.

9 Q Do you know what a --

10 MS. TAYLOE: Strike that.

11 BY MS. TAYLOE:

12 Q You say in the second paragraph: "I will
13 be meeting with the State Board of Education later
14 this morning to update them on responses from school
15 systems statewide..."

16 What was the role of the State Board of
17 Education in this process?

18 A I'm not really sure I know how to answer
19 that. I can tell you that my role was to report to
20 them regularly on the work that we had been doing,
21 which we did, and, you know, I would think their
22 role in this was consistent with their role as State
23 Board Members in any other matter.

24 So I just don't really know how to answer
25 that question.

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1 Q So would you say you were primarily
2 providing them information, or were they providing
3 you instructions as well, or was it kind of both
4 ways?

5 A I really feel like in my memory of most of
6 the meetings I had where I presented information, I
7 presented information and then left. And then if,
8 if I had gotten any direction, it was from my
9 superior later.

10 Q And that would be Pat Schofill?

11 A In this case, yes.

12 Q Could there be someone else in other
13 cases?

14 A Well, that was the chain of command. Pat
15 -- first me to Pat, Pat to the CFO.

16 So a directive may have come from the CFO
17 to Pat to me.

18 Q And the CFO is Ted Beck?

19 A Yes.

20 Q Sometimes he would just communicate
21 directly to you?

22 A Occasionally.

23 Q And did the State Board of Education
24 mainly ask you for information, or did they ask you
25 for your opinion and advice on things related to the

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1 assessment or remediation plan?

2 A I really believe what I provided the State
3 Board of -- the State Board of Education was
4 information, and then my experience was they
5 received information, they may ask a few questions,
6 and then, again, if anybody asked me for advice or
7 for clarity, it was the chain of command.

8 Q I'm going to shift gears again a little
9 bit and move on to some funding questions.

10 And we covered some of this SPLOST before
11 and FTE, so we've already got that foundation laid.

12 I know you said you had a general
13 understanding, and I'm not asking for more specifics
14 than you have. I'm just going to ask this. If you
15 don't know, you can tell me you don't know.

16 I read some reference to a change in the
17 last several years about the FTE funding formula.
18 Do you know what that was about?

19 A No.

20 Q With respect to square footage
21 requirements in light of special education
22 exemptions, does that ring a bell?

23 A Square footage requirements with respect
24 to special education exemptions?

25 That language doesn't ring a bell.

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1 Q I'll try to find a time then. I'll just
2 try to find the document.

3 Could you tell me just generally what are
4 the financial challenges in terms of finances of
5 maintaining facilities for GNETS facilities?

6 A I don't really separate the financial
7 challenges of maintaining facilities by program.
8 School systems all across the State have challenges
9 related to maintaining facilities, and I mean it --
10 it doesn't matter to me who serves in them, what
11 kids are served.

12 So I don't know how to answer that
13 specific to GNETS.

14 Q Okay. I'll try to break down then some of
15 the things that -- I'm just trying to break it down.

16 A Okay.

17 Q So facilities that are in a Local Facility
18 Plan are entitled to annual distributions; is that
19 correct?

20 A In a manner of speaking, yes.

21 Q So I understand they can choose to save
22 them up for bulk distribution later, but they have
23 an entitlement every year?

24 A Yes.

25 Q Are GNETS facilities, do they have the

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1 same structure in place to get entitlement to funds?

2 A It depends.

3 Q Does it depend on whether they're in an
4 LFP or not?

5 A Yes.

6 Q If there's a standalone GNETS facility
7 that's not in the LFP, does it have any access to
8 that same kind of funding stream?

9 A No.

10 Q And then another funding stream would be
11 the SPLOST funds that general education schools
12 generally have access to, correct?

13 A Yes.

14 Q Do standalone GNETS centers have access to
15 SPLOST funds?

16 A Yes.

17 Q And to do that, they would have to get
18 agreement by all the contributing school districts
19 to raise taxes to pay for remediation to that
20 facility; is that correct?

21 A I don't think that's correct.

22 Q How would they do it?

23 A Well, SPLOST dollars -- SPLOST dollars are
24 driven by what is listed in the referendum when the
25 taxpayers approve it. So if the taxpayers approved

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1 SPLOST dollars for school systems to use for capital
2 improvements for all -- all facilities in the
3 district, then, then that would be the basis -- you
4 used the term raising taxes. That's a pretty broad
5 term.

6 It is true SPLOST is a tax. So the -- but
7 the voter is allowing the district to collect that
8 tax knowing -- or approving they would spend it on
9 capital improvements. Those capital improvements
10 are not typically specifically outlined in the, in
11 the -- in the ballot question.

12 So if a district chooses to use SPLOST
13 dollars to complete capital improvements at a GNETS
14 facilities, that's legitimate.

15 Q Okay. Would you have any -- do you have
16 access to information about SPLOST funds and how
17 they're distributed?

18 A Be more specific about how they're
19 distributed.

20 Q If a district did follow a SPLOST
21 procedure and get SPLOST funds, would your
22 department know which facilities they were spent on?

23 A No.

24 Q Okay. Do you have reason to believe they
25 are spent equitably on standalone GNETS facilities?

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1 A I really don't have -- I don't have a
2 basis for drawing that opinion.

3 Q Okay. That's fair.

4 And revisiting a little bit because you've
5 clarified some things since I last asked this
6 question, so I want to make sure I didn't
7 misunderstand before.

8 Phased out facilities are not eligible for
9 state facility funds; is that correct?

10 A Correct.

11 MS. TAYLOE: I'm going to hand to the
12 court reporter Exhibit GA04088751, and it be
13 asked it be identified as Plaintiff's Exhibit
14 125.

15 (WHEREUPON, Plaintiff's Exhibit-125 was
16 marked for identification.)

17 MS. TAYLOE:

18 (Witness reviews exhibit.)

19 A Okay.

20 Q Do you recognize this document?

21 A I do.

22 Q This is an email from Mike Rowland to
23 Leonard McCoy, dated August 10th, 2016, and we've
24 kind of gone back and forth about the date, but do
25 you now understand 2016, the summer of 2016, to be

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1 the summer the FCAs were being conducted?

2 A Sure, yeah.

3 Q This email, Mr. McCoy -- I'm sorry, I'll
4 back up.

5 Is Mr. McCoy one of the field
6 consultants --

7 A Yes.

8 Q -- in the department?

9 A Yes.

10 Q Mr. McCoy lists some expenses that are
11 overhead associated with running a stand-alone
12 facility, and I think it's fair to say he
13 characterized it as inefficiencies.

14 I want you to look at the last sentence
15 there, where he says -- I want to see if you -- see
16 where he says: "There is no doubt in this ol' boy's
17 mind that facilities at aside, EBD students could be
18 better served in the schools and a great deal of
19 money is being wasted on administration and M and O
20 in the present setup."

21 EBD, do you understand that to mean
22 emotionally and behaviorally disabled students?

23 A Yes.

24 Q And M and O is maintenance and operation?

25 A Yes.

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1 Q What did you think when you received this
2 email from Mr. McCoy?

3 A I thought Mr. McCoy had editorialized
4 outside the purview of his job responsibilities.

5 Q What did you mean when you said "I get
6 it"?

7 A I get it.

8 Q All right. So outside of the -- when you
9 say you get it, what do you get?

10 A I mean he made an argument that I could
11 understand, but --

12 Q Do you see there's merit to his argument?

13 MR. PICO PRATS: Objection. That calls
14 for lack of personal knowledge, speculation.

15 MS. TAYLOE: Can we agree to.

16 MR. PICO PRATS: Those are all form
17 objections.

18 MS. TAYLOE: Right. So all you have to
19 say is objection to form.

20 MR. PICO PRATS: Okay.

21 BY MS. TAYLOE:

22 Q What was your personal opinion of what he
23 said to you or wrote to you?

24 A That he had editorialized outside the
25 purview of his job responsibilities.

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1 Q And you had no opinion about the accuracy
2 of what he said?

3 A I had no way to have an opinion about the
4 accuracy because I didn't know the other side of the
5 story. Because there is one.

6 Q Are you talking about in this facility in
7 particular or in GNETS facilities in general?

8 A Well, in -- he's referring to a specific
9 location. And I certainly heard his side of the
10 story, but I have no -- I have no way to know what
11 that district's up against or how they're funding
12 anything, and it's just not my job to know that.

13 Q But you did say you understood his
14 argument?

15 A I mean I saw where he -- I certainly was
16 able to hear what he was saying.

17 Q And he said here "facilities aside." What
18 about not excluding facilities, do you think there's
19 an argument that facility expenditures themselves
20 are -- might be better used in a more consolidated
21 manner?

22 A With respect to --

23 Q GNETS standalone facility.

24 A My opinion is each, each facility is a
25 unique set of data points, and it's impossible for

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1 me to have an opinion about efficiency without
2 looking at budget records or ledger entries. I mean
3 there's just a lot that goes into an analysis over
4 what's efficient and what's not.

5 And I don't know how -- I don't know how
6 to respond to Mr. McCoy's comments.

7 Q You mentioned earlier that you have an --
8 experts do some of the facilities assessments
9 because the field consultants were former educators
10 like yourself. Was Mr. McCoy also a former
11 educator?

12 A Yes.

13 Q Do you know what his educational -- or
14 professional background as an educator was?

15 A I do.

16 Q What was it?

17 A He was formally the superintendent in
18 Colquitt County.

19 Q Colquitt?

20 A Colquitt County.

21 Q And do you know how long he was
22 superintendent in Colquitt County for?

23 A I don't.

24 Q Did he have teaching experience before
25 that?

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1 A Perhaps. I don't know that.

2 Q Okay. How many GNETS facilities would you
3 say you have personally visited in the last, I'd
4 say, 8 to 10 years?

5 A I have no idea. I mean a number.

6 Prior to -- prior to this grant, very few.
7 But subsequent to the grant, a number. I just don't
8 know have -- I can't quantify that specifically.

9 Q So I thought earlier you said you went on
10 the three test site visits but then didn't go --

11 A Sure.

12 Q -- on the rest of them?

13 A But after that, every time they moved kids
14 to another location, they called me and I went. So
15 I mean if you're asking me more than five and less
16 than 20, I'm good with that answer.

17 Q Somewhere in that range?

18 A Yeah, but I can't -- I mean one of the
19 things that I did a lot of was visit schools in
20 general.

21 Q So after the three pilot sites that you
22 visited, the ones that you visited were ones that
23 were being -- proposed to be relocated or the ones
24 they were proposing to be relocated to?

25 A Both.

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1 Q Both?

2 A Yeah.

3 Q And was that as part of the exit strategy
4 process, they wanted to get approval for the new
5 facility that they wanted to use?

6 A Yes.

7 Q And did they need that approval from your
8 department to be able to move into the new
9 facilities?

10 A Yes.

11 Q From the ones you have visited, what is
12 your impression of the general condition of GNETS
13 standalone facilities?

14 A It depends. There's one in Athens that's
15 every bit as good as every school you've ever been
16 in, and then there are some in other places that,
17 you know, weren't very good.

18 Q What were your concerns about the ones
19 that weren't very good? What kinds of things?

20 A Well, mainly that, that -- whether this
21 was school -- hard to kind of know what came first,
22 the chicken or the egg, with respect to -- school
23 systems are offering places for programs to locate,
24 centers to locate. Well, all the schools in their
25 facility plan are being used. So the only thing

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1 available is something that's not being used, and in
2 general school systems that stop using facilities do
3 so for a reason.

4 And those reasons could be multiple but,
5 but it usually results in a lesser commitment to
6 routine upkeep.

7 Q So GNETS students receiving GNETS service
8 are often, I heard you say, often placed in
9 buildings that were vacated by general education
10 students or were otherwise available because they
11 weren't being used by other classes?

12 A Yes.

13 Q Do you think the lesser commitment to
14 routine upkeep is a result of a shortage of finances
15 or some other reason?

16 A My hunch would be just the -- there's
17 competition for resources. You know, specific to --
18 again, some school systems took old buildings like
19 and kept them up nicely. And so whatever students
20 were housed there, whatever programs they housed
21 there, they were, they were to be commended for
22 looking after the taxpayers' asset.

23 But in other situations, I really don't
24 know how to speak to what a school system used in
25 its calculus for why it put money into one facility

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1 and not the other.

2 Q You said there's competition for
3 resources. Do you think that GNETS standalone
4 facilities are less likely to earn those -- be --
5 have access to those resources?

6 A I really don't know the answer to that.

7 Q Why did you mention competition for
8 resources?

9 A Well, I mean that's true even in schools
10 that are in the Local Facility Plan. There's just
11 so many dollars and all of this need.

12 So districts have to prioritize projects.

13 Q Yet you said there was, in these
14 facilities there was a lesser commitment to
15 maintenance?

16 A Well, I would clarify that by saying in
17 facilities that were phased out of the Local
18 Facility Plan.

19 Q Because they had been phased out, there
20 was a lesser commitment by the distribution to
21 maintain them?

22 A In general. Could be. It's not always
23 true.

24 Q Not always, but that would not be
25 uncommon?

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1 A True.

2 Q That would be even though there are
3 currently GNETS students being served in those
4 facilities?

5 A Yeah, I guess so.

6 Q So I asked for a big time frame about how
7 many you had seen in the last 10 years, and that
8 gives me some perspective, but now I'm trying to get
9 a more recent perspective on. When was last time
10 you visited a GNETS facility?

11 A 2020.

12 Q Do you remember which one or ones?

13 A Well, the last site visit that I remember
14 was to look at a facility that -- where the GNETS
15 wanted to locate a program in Washington County.

16 Q And when was the last one before that?
17 I'm trying to get a sense, were they
18 recent or kind of spread out over the 10 years?

19 A Yeah. Again, most of the visits -- I
20 would say -- really, exclusively any GNETS program
21 that I visited in reference to my job at the
22 department occurred in conjunction with this grant.

23 Q So that would place it sort of 2017 on?

24 A Yes.

25 Q I'm going to ask you a few questions now

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1 about the knowledge you have about GNETS facilities.
2 This could be either, and you can let me know, if
3 it's from your personal observation or reports from
4 your field consultants.

5 Do you know whether any of the GNETS
6 facilities, the facilities currently housing GNETS
7 students, were those previously used as segregated
8 schools for black children in the '60s, '50s and
9 '60s?

10 A I do not know that, no.

11 Q Do you know for those programs that are
12 located on sites that also house general education
13 schools whether the GNETS program is sort of in a
14 locked wing or physically separated barrier between
15 them and the general education students?

16 A Again, I do not know that.

17 Q Do you know whether these facilities have
18 seclusion rooms?

19 A I do not.

20 Q Would that, to your mind, be something
21 that would be included as part of the spaces that
22 would be looked at when you look at program spaces?

23 A I really didn't have a role to play in
24 knowing what program spaces would be appropriate for
25 GNETS and when we -- if -- that really wasn't --

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1 going into these facilities wasn't with an eye for
2 do the spaces meet program needs, because I didn't
3 really understand the nature of the program needs
4 relative to the technical experience -- I mean
5 technical requirements, delivered instruction to
6 those kids.

7 Q What were your main take-aways from the
8 facility conditions assessments when they were
9 completed about the conditions at GNETS facilities?

10 A It was very similar to what we find
11 statewide. There were some school districts and
12 some entities that were providing quality facilities
13 for those students, and there were some school
14 districts and facilities that were not, and
15 everything in between.

16 Q Were there any kind of things that were
17 more commonly issues at GNETS facilities?

18 A I think in general the idea that -- I
19 don't know how -- it's dangerous to quantify because
20 many sounds like a lot, and I don't know what the
21 numbers are.

22 But what I do know is that, that in some
23 cases students were housed in facilities that had
24 been phased out of facility plans for a long time,
25 and where it appeared school districts just hadn't

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1 put the kind of resources into those facilities that
2 they might.

3 Q And -- let me back up little bit.

4 Did you agree with the recommendation to
5 close --

6 MS. TAYLOE: I'm sorry.

7 Q Did you agree with the recommendation to
8 relocate the students from the nine facilities in
9 the summer of 2016?

10 A Yes.

11 Q Did you think there were other facilities
12 that it might also have been beneficial to relocate
13 students from?

14 A I don't remember one particularly, for
15 example, that I felt like we missed, especially
16 given the fact that we were offering a grant for
17 facility improvement.

18 So there's not one that stands out, I
19 think is what I'm trying to say, other than the nine
20 that were identified in that report.

21 Q Do you remember one of your field
22 consultants saying that they were haunted by the
23 gross inadequacies -- inadequacies that they saw?

24 A If you say they said it, they said it.

25 I don't remember that specifically, but if

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1 you show me a document where they wrote it down, it
2 happened.

3 Q Do you remember one facility that a field
4 consultant told them he would shut down if he were
5 king?

6 A Again, I do not remember that specifically
7 but if you say it happened, it happened. It
8 wouldn't surprise me.

9 Q So you would have to see documents about
10 those facilities to be able to remember if anything
11 happened -- if they were among the ones that were
12 closed?

13 A Yes.

14 Q Were things that were listed in grant
15 applications as part of the grant application
16 process, were those things that were routinely
17 included in local facility plans?

18 A Yes.

19 Q Were there any things that were available
20 for funding in the GNETS grant, the GNETS facilities
21 grant, that would not have been covered by LFPs?

22 A I think so. I think the answer to that is
23 yes.

24 Q Do you have a recollection about what
25 kinds of things might have been?

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1 A Things like parking. You wouldn't -- in
2 regular capital outlay, I think I mentioned this
3 before, repavement of parking lot or creating
4 handicapped access space in parking lots is not an
5 eligible need, but with the GNETS grants I do
6 believe, believe those were needs that were funded,
7 in some cases.

8 Again, without specifically seeing an
9 application or an award, I don't know for sure.

10 Q So if I recall, that's what you were
11 talking about there were site conditions, some
12 things would not have been reimbursable as a site
13 condition, were eligible under the GNETS grant?

14 A Yes.

15 Q Do you know why that was? That was just
16 how the grant was drawn?

17 A What I remember the discussion being was
18 that -- don't mind saying it. I advocated for this.

19 You have a report that says here are some
20 of the -- these are needs, and I understand that in
21 regular capital outlay we wouldn't fund those needs,
22 but this is different. We sent people out there and
23 said make us a list, and they made us a list, and
24 now we're only -- and we're only going to tell the
25 district, look, we're only giving you half of what

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1 it's really going to cost. So I think as long as
2 it's something that's a need on that list, let's say
3 that's eligible for purposes of this grant.

4 And I'll have to tell you, I don't know if
5 that's where we landed. I hope that's where we
6 landed. I hope. That's my memory. I know that's,
7 that's what we talked about. That was the
8 rationale.

9 Q We already talked a little bit about how
10 frequently GNETS standalone facilities are older
11 than the local -- GNET local schools, and you've
12 said they sometimes suffer from lack of maintenance
13 more than other local schools.

14 Is it fair to say then that those factors
15 mean that GNETS facilities are more likely to not
16 satisfy contemporary codes or standards for
17 educational environments?

18 A Yes.

19 Q What kind of codes or standards do you
20 think they might fall within that?

21 A There have been changes in building codes
22 over the years for a long time. So electrical
23 codes, plumbing codes, air quality codes are
24 standards more than anything. I mean these are a
25 few that come to mind.

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1 Q How about technological capacity?

2 A Again, it depends on what a district might
3 have done to upgrade that facility. But in the
4 absence of upgrades, sure.

5 Q What about modern construction materials
6 and practices?

7 A Um, that is true, but I think it's fair to
8 say that, you know, not all old buildings were
9 poorly constructed.

10 Q I don't think they would have to be poorly
11 constructed to no longer meet -- I mean I saw -- I'm
12 not a facilities expert by any stretch of the
13 imagination, but I saw things about the types of
14 glass recommended to be used for windows and things
15 like that.

16 MR. PICO PRATS: Objection for testimony
17 by counsel.

18 MS. TAYLOE: Okay. Sorry.

19 BY MS. TAYLOE:

20 Q Is it possible for buildings not to meet
21 -- facilities not to meet modern construction
22 materials practices even if they were well
23 constructed at the time they were built?

24 A Yes.

25 Q We talked before -- we looked at the

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1 Cedarwood assessment. We saw it was 154 old -- I'm
2 sorry -- 1954 building, wear and tear, toilets
3 missing doors, and no food service available.

4 Remember discussing that?

5 A Yes.

6 Q Would you say -- would you say it was fair
7 to conclude those conditions had been in existence
8 for some time before the facilities condition
9 assessment was conducted?

10 A Yes.

11 MS. TAYLOE: I was going to look for a
12 document, so if we could take a break.

13 THE VIDEOGRAPHER: Off the record at 2:27
14 p.m.

15 (A recess was taken.)

16 THE VIDEOGRAPHER: We're back on the
17 record at 2:59 p.m.

18 BY MS. TAYLOE:

19 Q I wanted to loop back and clarify some
20 time line questions.

21 Is it correct that it was summer of 2016
22 that the students were relocated from those nine
23 facilities that we just discussed?

24 A That sounds right.

25 Q And so the grant application then, that

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1 process would have started in 2017?

2 A That sounds right.

3 Q How long would it have taken for the grant
4 applications to be granted?

5 A You mean from the time they were submitted
6 to award?

7 Q Yes.

8 A Is that what you're asking?

9 Q Yes.

10 A I really don't recall. I'm sure there's a
11 record of when -- there was a deadline for the
12 application and there has to be a record of the
13 first award.

14 So I don't -- I just don't remember those
15 dates.

16 I feel like we sent award letters out.

17 Q Is it fair to say it would have been some
18 time in the next spring?

19 A Sure, I think so. That sounds about
20 right.

21 Q Then we talked about how there would be
22 some window of time because of all the pieces it
23 takes to get the funding and architects and approval
24 and like that.

25 So I think -- I'm trying to think about

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1 the time between the 2017 grant applications and the
2 last visit you said you conducted in 2020. What was
3 the purpose of the visits between 2018 and 2020?

4 A I only remembering visiting sites when a
5 district that was either moving a GNETS class or
6 center from where it currently was to another
7 location that I had to visit the new location.

8 In fairness to that, there were some
9 situations where I couldn't go, so I sent a field
10 consultant. But somebody from the department had to
11 visit the site where the program or center would be
12 located and approve it.

13 Q And were those facilities --

14 MS. TAYLOE: Excuse me.

15 Q Were those programs who were looking to
16 relocate to a new facility, were the ones who had
17 been told in 2016 to relocate their students?

18 A Not always. In some cases that was true,
19 but in other cases -- what we tried to communicate
20 to the GNETS program is look, in light of everything
21 we've been through, if you're -- these programs can
22 be somewhat pneumatic, as they're looking for a
23 place to be served. So it really didn't matter
24 whether you -- whether, whether you had been --
25 whether your site had been the subject of -- if

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1 you've got to move or not, if you are -- if the
2 GNETS class or the program or center was located in
3 spot A last year and you're proposing to move it to
4 spot B, you have to get DOE approval for that move.

5 Q So any time a GNETS program was to change
6 locations, they needed DOE approval?

7 A Well, that was true when I left.

8 Q Do you know, has someone else been asked
9 to fill your position?

10 A I do not know that.

11 Q So you don't know then if anybody else is
12 continuing with those visits?

13 A I do not.

14 MS. TAYLOE: I'd like to mark a document
15 produced by the State, GA00315849, as
16 Plaintiff's Exhibit No. 126.

17 (WHEREUPON, Plaintiff's Exhibit-126 was
18 marked for identification.)

19 (Witness reviews exhibit.)

20 A Okay.

21 Q This is an email from you to tcason, sent
22 February 26, 2018. Is that correct?

23 A Yes.

24 Q Who's Dr. Cason?

25 A I think this was the superintendent of

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1 Valdosta City schools.

2 Q And does this email seem to reflect the
3 kind of approval we were just discussing where the
4 Department of Education needed to approve a
5 relocation of a GNETS location from one facility to
6 another?

7 A Yes.

8 Q Do you know if this was one of the --
9 MS. TAYLOE: Strike.

10 BY MS. TAYLOE:

11 Q Was this relocation a result of the
12 facilities conditions assessment?

13 A Well, based on the email that Dr. Cason
14 wrote to Mr. Schofill, it appears that the decision
15 was -- or this, this act was being taken because the
16 Valdosta City schools were contemplating removing
17 themselves from the GNETS network. And so if I'm
18 reading this correctly, they were looking to find a
19 facility in their district to serve these students.

20 But the first sentence there is "As you
21 know" -- this is Lowndes County. I'm sorry.

22 Lowndes County school system -- that's not
23 true. Okay.

24 So this is why it's a little complicated.
25 It is the Valdosta City superintendent who is

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1 writing the letter, but Lowndes County is the agent
2 for that particular GNETS. And Lowndes is talking
3 about pulling out of the GNETS network. So Valdosta
4 City is saying, okay, we've got to find a spot for
5 our kids, and we're proposing the old Valdosta High,
6 because they had just built a new Valdosta High.

7 And my response is that Mr. McCoy will be
8 doing that visit, not myself.

9 Q So it's possible that Lowndes County's
10 decision not to serve as a fiscal agent had
11 something to do with the facilities conditions
12 assessment but it may have been an independent
13 decision?

14 A I don't know now why Lowndes is making
15 that decision.

16 Q But for whatever reason, they're not
17 serving as fiscal agent anymore. So Valdosta is
18 looking for a new location for their program?

19 A Right.

20 Q And they arranged with you and then
21 through you, Mr. McCoy, to get the site approval
22 from the Department of Education?

23 A Correct.

24 Q Have you or anybody from your team visited
25 this site since then?

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1 A I have not.

2 Q Do you know if anyone from your team has?

3 A I don't, I don't -- I do not know that.

4 Q Have you heard any conversations since the
5 facilities condition assessment about the Valdosta
6 GNETS program conditions?

7 A No, ma'am.

8 MS. TAYLOE: Do I still mark this as an
9 exhibit even though we don't have a paper copy?

10 MS. GARDNER: Yes.

11 MS. TAYLOE: GA00041561 as Plaintiff's
12 Exhibit No. 127.

13 (WHEREUPON, Plaintiff's Exhibit-127 was
14 marked for identification.)

15 (Witness reviews exhibit.)

16 A Okay.

17 Q And this is a May 18, 2016 email thread
18 about the pilot schools; is that correct?

19 A Yes.

20 Q Do you see that the pilot schools that
21 were visited were identified as Kingsland, Waycross,
22 and Brunswick?

23 A Yes.

24 Q And that Kingsland was noted to be
25 average, and Waycross and Brunswick -- Brunswick

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1 were noted to be critical?

2 A I do not see that in this email.

3 Q Right there.

4 A Hang on. I'm sorry.

5 Yes, I do see that.

6 Q Just since I've been using different
7 terminology in this, are the pilot facilities and
8 the test facilities that we've been talking about,
9 the three, the same?

10 A Yes.

11 Q How, how did Waycross and Brunswick come
12 to be identified as critical before the pilot visit?

13 A From the information provided in the
14 assessments that the field consultants did.

15 Q So the field consultants went out first,
16 did their assessments, and then this was the test
17 run with the architectural team to show them what
18 kinds of things to look for on the visits?

19 A Correct.

20 Q Okay. What was critical and average?
21 What were they relative to? To other GNETS
22 facilities or just a general statement of need?

23 A Yeah. I don't -- I mean I don't really
24 know.

25 This is a determination that was made by

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1 the architectural firm, and the process was, and I
2 think we talked about this before, it was kind of a
3 first phase review by the consultants, who were just
4 using the checklist that we looked at.

5 The checklist was sent with, with the
6 comments, was sent to the architectural firm, who at
7 that point made these, these judgments of critical,
8 average, or whatever they were using. Obviously,
9 these -- this is the language they used in this
10 email.

11 So that was a determination made by the
12 architect based on the information they had been
13 provided in that first walk-through by the
14 facilities consultants.

15 MS. TAYLOE: Then I would like to pull up
16 GA00196912.

17 I'd like to have that identified as
18 Exhibit No. -- I'm sorry. 128. I'm sorry.

19 (WHEREUPON, Plaintiff's Exhibit-128 was
20 marked for identification.)

21 BY MS. TAYLOE:

22 Q Do you see this that as a March 3rd, 2016
23 email relating to the RFQ?

24 A Yes.

25 Q This RFQ is request for qualifications

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1 that we discussed earlier?

2 A Yes.

3 Q So you sent this to Emily and Clara
4 attaching the RFQ; is that correct?

5 A That is correct.

6 MS. TAYLOE: Then I would like to look at
7 the next -- the attachment ending 6913.

8 So that would be GA00196913, and identify
9 that as Exhibit 129, please.

10 We'll mark it as a separate one.

11 (WHEREUPON, Plaintiff's Exhibit-129 was
12 marked for identification.)

13 MS. TAYLOE: It's marked as an attachment
14 but it's not in one document.

15 (Witness reviews exhibit.)

16 A Okay.

17 Q Do you see on -- do you see on Page 2, in
18 Item No. 1, where it says, "The Georgia Department
19 of Education, and local school districts, operate 48
20 GNETS locations throughout the state of Georgia"?

21 A Yes.

22 Q And that they "are in need of various
23 repairs and upgrades to meet the needs of students
24 in the GNETS program."

25 A Yes.

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1 Q Okay. So that was -- that reflects the
2 entity with which the contractor, the architects
3 entered into the contract?

4 The owner being GSFIC working on behalf of
5 Georgia Department of Education?

6 A That's correct.

7 MS. TAYLOE: Now I'd like to ask for
8 document 04089630 to be marked as Exhibit 130.

9 (WHEREUPON, Defendant's Exhibit-130 was
10 marked for identification.)

11 (Witness reviews exhibit.)

12 A Okay.

13 Q This is an email from you to Pat Schofill,
14 dated January 8th -- wait a minute.

15 MS. TAYLOE: I'm sorry, that was the wrong
16 document.

17 We're going to be looking at GA04089636.
18 (Witness reviews exhibit.)

19 MS. TAYLOE: Can we go off the record for
20 a second.

21 THE VIDEOGRAPHER: Off the record at 3:24
22 p.m.

23 (Discussion ensued off the record.)

24 THE VIDEOGRAPHER: Back on the record at
25 3:24 p.m.

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1 MS. TAYLOE: I just want to clarify for
2 the record I stated the wrong exhibit number
3 before, or the wrong Bates number for the
4 exhibit.

5 Plaintiff's Exhibit 130 is properly
6 identified as GA04089636.

7 A Okay.

8 Q And you see that's an email from you to
9 Pat Schofill, dated January 8, 2017; is that
10 correct?

11 A Correct.

12 Q And does this help refresh your
13 recollection about the facility ratings, the
14 facility condition index score?

15 A I mean I -- I referred to a draft list
16 with a column I had in the worksheet, and I'm
17 familiar with the facility condition rating
18 component.

19 MS. TAYLOE: Can we look at the attachment
20 to that, GA04089637.

21 (Witness reviews exhibit.)

22 A Okay.

23 MS. TAYLOE: Can we mark this, please, as
24 Plaintiff's Exhibit 131.

25 (WHEREUPON, Plaintiff's Exhibit-131 was

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1 marked for identification.)

2 BY MS. TAYLOE:

3 Q Do you see the percentage ratings in the
4 bottom column marked "Weighted Score"?

5 A Yes.

6 Q Do you understand that to be what you
7 described earlier as the percentage closest to zero
8 was problematic, and closest to one was a good
9 condition for a facility?

10 A Yes.

11 Q So that if these numbers were represented
12 as decimals instead of percentage, for instance, the
13 .4 -- 48 percent would be a .48?

14 A Yes.

15 Q Are these the scores you were referencing
16 before when you said the ones below .4 were the ones
17 that were marked in red on that spreadsheet?

18 A Yes.

19 Q Do you see on the left-hand column how the
20 percentages are matched up to the categories that we
21 discussed before about getting scored?

22 A You mean General Physical Condition,
23 Building Systems, Building Envelope?

24 Q Yes, and how they have percentages next to
25 them?

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1 A Yes.

2 Q Is it correct to say that those
3 percentages in parenthesis next to those categories
4 reflect how heavily or less heavily a score is
5 weighted to get the overall facility condition index
6 score?

7 A Yes.

8 Q For instance, if a building is a high
9 physical condition score and a low site amenity
10 score, would have a higher overall score than one
11 with the reverse?

12 A Say that again.

13 Q So if a facility has a ten for general
14 physical condition and a one for site amenities,
15 that facility would get an overall higher facilities
16 condition index score than one that had a one for
17 physical condition and a ten for site amenities?

18 A Yes.

19 Q Great. We talked about this before and
20 you said it would be helpful to see a document to
21 remind you of the scale.

22 A Right, Right.

23 Q And this was the scale that was used to
24 generate the assessments that resulted in the
25 overall facility index -- facility condition index

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1 scores?

2 A Yeah. I think these numbers came out of
3 2WR's report, if I remember correctly.

4 Q So before we hadn't been entirely clear
5 about whether 2WR used the same scale or not as your
6 facility field consultants.

7 Does this help clarify that?

8 A Yeah, yeah. Okay.

9 This is what I think. There were two
10 separate -- like two separate functions. Function
11 one was a preliminary function -- preliminary visit
12 where we sent the consultants to do this general
13 observation using that checklist that we looked at
14 earlier. And that was at the request of the
15 architect so that they could get an idea for kind of
16 what they were going into first. Maybe just to --
17 maybe it was, maybe it was accurate, maybe it
18 wasn't, but at least gave them some baseline to
19 start with in terms of planning and, and -- without
20 having been -- themselves not having visited any of
21 these places.

22 So then they took that information and I
23 think extrapolated the numbers and information into
24 that, the categories we looked at, that I can't --
25 critical, average. Surely there was one that was

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1 great, but whatever good was.

2 And then, and then maybe that drove some
3 decisions about how to organize for the visits.

4 The visits were held. The documentation
5 was collected based on these categories that they
6 listed in that left column over there, and 2WR's
7 personnel scored each of those categories
8 independently of any information -- really, this was
9 based on their physical assessment of the facility.

10 And so these, these numbers came from 2WR
11 assigning values to those criteria based on their
12 physical visit.

13 Q Okay. So the earlier visit by your team
14 may have been used to prioritize sites or something
15 like that, but the evaluations provided in the end
16 by 2WR were their own independent work?

17 A Yes.

18 Q Okay. Do you -- see if the email that we
19 looked at first, the cover email to this, you were
20 asking to discuss with Pat Schofill your
21 recommendation about -- I'll pronounce it -- Ailey?

22 A Yes.

23 Q What was your recommendation about Ailey?

24 A Well, the email just refers to let's
25 discuss the rating for Ailey. I don't know that it

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1 was -- I don't know that the intent of the email was
2 to communicate any kind of recommendation.

3 Q What was Ailey's score?

4 A You have to put the spreadsheet back up so
5 I can look at it.

6 Q I'm sorry. I forgot they're electronic.

7 A Or just tell me. I'll accept whatever you
8 --

9 Q No, I'm not allowed to testify. I
10 remember that now.

11 A That should prove I don't know how this
12 works, so.

13 And the score was 48 percent for Ailey,
14 which is in Montgomery County.

15 Q Okay.

16 MS. TAYLOE: Okay. I'll hold off there.

17 One more. If we look at GA04092894, and
18 if I could ask that be marked as Plaintiff's
19 Exhibit No. 132.

20 (WHEREUPON, Plaintiff's Exhibit-132 was
21 marked for identification.)

22 (Witness reviews exhibit.)

23 A Okay.

24 Q This is an email to you dated March 1st,
25 2017. Is that correct?

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1 A Correct.

2 Q And is that the same date as the phone
3 conference we talked about earlier?

4 A I don't remember.

5 Q Okay. Well, could you please look at
6 Question No. 4, I believe, that she asked you?

7 A Okay.

8 Q Could you read that, please?

9 A "Will my facility be closed if we don't do
10 anything? I only have 7 or 8 students and one
11 teacher at one center. I am not sure of putting 1
12 million dollars into this building is a wise move."

13 Q And could you read your response to her,
14 please?

15 A "Thank you for your questions and patience
16 through this process. I will collect questions
17 through Wednesday of next week, and the other
18 members of the program staff and I will spend
19 Thursday drafting answers. You can look for a
20 response by Monday, 3/6, at the latest. Thanks
21 again, and do not hesitate to let me know if you
22 have additional questions."

23 Q And was this one of the questions that led
24 to the -- that was addressed in the frequently asked
25 questions document that we reviewed earlier?

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1 A Perhaps.

2 Q Was this part of the -- it was part of
3 that process?

4 A Yes. Yes.

5 Q Okay.

6 And who is Marilyn Dryden who wrote this
7 email to you?

8 A She is the director of River Quest GNETS
9 in Emanuel County.

10 MS. TAYLOE: I'd like to introduce
11 GA00791991, and ask it be marked as Plaintiff's
12 Exhibit 133.

13 (WHEREUPON, Plaintiff's Exhibit-133 was
14 marked for identification.)

15 (Witness reviews exhibit.)

16 A Okay.

17 Q Okay. And this is an email thread. I'd
18 like to point you to in the middle of the second
19 page there's an email dated August 15th, 2017.

20 And in the first full paragraph there, it
21 says -- it starts: "Our records indicate."

22 Do you see that paragraph?

23 A Yes.

24 Q Later in that paragraph, it says: "That
25 being the case, you are reminded of the directive

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1 established in the document entitled GNETS
2 Facilities Report Frequently Asked Questions dated
3 March 14, 2017."

4 And then it goes on to say: "This
5 document directs that if the Local Unit of
6 Administration," and it goes on with the different
7 options available.

8 A Right.

9 Q Right?

10 A Yes.

11 Q And did you send this?

12 A Yes.

13 Q And did you send that to the GNETS program
14 and superintendents list that we talked about, like
15 the superintendents and -- I don't know who the
16 other group was in that category of emails.

17 A It appears that I sent this document --
18 this to a list of superintendents who had facility
19 oversight or jurisdiction but did not make an
20 application for grant -- make an application for
21 grant funding.

22 Q And this is the one that reminded them
23 even if they weren't applying for grant funding,
24 they still needed to comply with the directive to
25 either provide exit strategy or report to the

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1 Department of Education how they were going to
2 complete the renovations or address the needs?

3 A Yes.

4 Q Okay. Thank you.

5 MS. TAYLOE: Then I have document
6 GA02546048, and I would ask this be marked as
7 Plaintiff's Exhibit 134.

8 (WHEREUPON, Plaintiff's Exhibit-134 was
9 marked for identification.)

10 (Witness reviews exhibit.)

11 A Okay.

12 Q And this is to answer the question before
13 we had about who all was on the Selection Committee,
14 and I would draw your attention to the middle
15 paragraph of this email -- I'm sorry.

16 This email is from you to Stacey
17 Suber-Drake, Nakeba Rahming and Clara Keith, and Pat
18 Schofill.

19 A Correct.

20 Q And the second paragraph, it says: "I
21 have assumed the four of us would comprise the
22 selection committee but we can add or subtract to it
23 as you all see fit."

24 A Correct.

25 Q Does that help you remember who was on the

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1 Selection Committee?

2 A Yes.

3 Q And who would that be?

4 A Well, at least -- let me say this: It
5 makes sense that those people that I indicated in
6 the email would serve, but I -- unless -- I still
7 don't -- I know I was part of it, I know Pat was
8 part of it. I'm sure Nakeba was part of it. But
9 beyond that I just -- if it was somebody else added,
10 for example, you'd have to tell me or show me a
11 document where it said, here we are.

12 I just -- I might have missed somebody, I
13 guess is what I'm trying to say.

14 Q Okay. This has you and four addressees,
15 so a total five people on this email, and it says
16 "the four of us would comprise."

17 Is there somebody on this email who was
18 not in the committee?

19 A It may have just been an oversight on my
20 part.

21 Q Okay. So to the best of your
22 recollection, the people on this email comprised the
23 committee and there may have been someone else but
24 you don't have a recollection?

25 A Or it may have been one, one less of

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1 these. I just can't remember specifically who, who
2 -- who ultimately sat down and looked at the
3 applications.

4 Q Okay. I'll kind of wrap up from before,
5 so now I'm going to go back to just a few more
6 questions in my main one.

7 Mr. Rowland, do you -- are you familiar
8 with the term "school climate"?

9 A Yes.

10 Q What do you understand that to mean?

11 A Typically it is -- I understand it to mean
12 the culture of the, of the school.

13 Q And what kinds of factors would be
14 included in culture?

15 A Relationship between administration and
16 staff, relationship between staff and students,
17 relationship between staff and parents, relationship
18 between staff and families. The relationship of the
19 teaching staff to families.

20 Just to name a few.

21 Q Would you consider aspects of the facility
22 condition to be part of the school climate?

23 A Yes.

24 Q And what kinds of conditions would you
25 include?

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1 A I would say in the overarching scheme of
2 climate, which I really in the context of my
3 professional background, or the things I mentioned
4 earlier, that poor facility condition would have a
5 negative impact on climate. Could have a negative
6 impact on climate.

7 Q And what kinds of conditions would you
8 think could have a negative impact on climate?

9 A Leaky roofs, poor air quality, unclean
10 conditions, unkept areas.

11 Q And how do you think that negatively
12 impacts climate?

13 A Perhaps it makes faculty, staff, students
14 and families feel as if the culture is unimportant.

15 Q That the culture is unimportant?

16 A It's hard to -- it's hard to grab a
17 precise word, but, you know, there are a lot of
18 families that live in substandard conditions but
19 have loving households. Just like there may be some
20 school climates that thrive even though the facility
21 is not optimal.

22 But I think there's -- my intuition is
23 that if the facility is in poor condition, that can
24 contribute to poor climate.

25 Q And what conditions would it not

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1 contribute to poor climate?

2 A Well, I don't know the answer to that. I
3 do know that there are faculty, staffs, and families
4 that overcome some negative impacts on school
5 climate to have really positive outcomes.

6 So, you know, not just -- to me that's the
7 overgeneralization that always is true. I just find
8 it to be a stretch.

9 Q But it would be a matter of overcoming the
10 poor conditions?

11 A I agree with that.

12 Q Okay.

13 MS. TAYLOE: This one you're going to be
14 familiar with. I'm about to introduce
15 GA00985661, and ask that it be marked as
16 Plaintiff's Exhibit 135.

17 (WHEREUPON, Plaintiff's Exhibit-135 was
18 marked for identification.)

19 A Yes, I'm familiar with this document.

20 Q Can you state for the record what document
21 it is?

22 A It is the State of Our Schools report,
23 America's K-12 Facilities, produced by the 21st
24 Century School Fund, in cooperation with the
25 National School Council, and the Center for Green

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1 Schools.

2 Q And what was your connection with that
3 council?

4 A At the time I served -- in 2016, at the
5 time of this report, I served as the president of
6 the National Council on School Facilities.

7 Q And were you involved in the writing of
8 that report?

9 A Yes.

10 Q I imagine it was a team effort, but were
11 there certain sections? Or would you describe your
12 role as primary author?

13 A In large part, primary author was the
14 staff of the 21st Century School Fund.

15 The National Council is a -- was at the
16 time. I'm assuming it still is -- was a group that
17 aspired to be a collection of the various facility
18 heads from the states, and so the staff of the 21st
19 Century School Fund really collected the data that
20 became the basis for the report, and then there was
21 a work meeting between that staff and the members of
22 the National Council to kind of sift through this
23 information, create some wording paradigms, but I
24 would consider the real author of the report to be
25 the staff of the 21st Century Fund.

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1 Q Okay. Did you approve of its publication
2 under the name of the council you were president of
3 at the time?

4 A Yes.

5 Q I'd like to draw your attention to the
6 Executive Summary.

7 Do you see on Page 3 at the top, where it
8 says, "A large and growing body of evidence
9 demonstrates that school facilities have a direct
10 impact on student learning, students and staff
11 health, and school finances"?

12 A Yes.

13 Q And immediately after that: "But too many
14 students attend school facilities that fall short of
15 providing 20th Century learning environments because
16 essential maintenance and capital improvements are
17 underfunded."

18 A Yes.

19 Q Do you still agree with that sentence?

20 A Yes.

21 Q And do you see a little further down --
22 let's see if I can find a mark for you.

23 MS. TAYLOE: If I said 20th century, I
24 meant 21st Century. I'm old. Sorry.

25 I'm sorry. I have quotes here but I do

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1 not have page numbers for them. I apologize.

2 Q So in the paragraph that's headed "K-12
3 School Facilities Matter" in the middle of that
4 paragraph -- let me know when you're caught up.

5 In the middle of the paragraph it says:
6 "Research shows that high-quality facilities help
7 improve student achievement," bracketed, "are
8 integral to ensuring equity in educational offerings
9 and opportunities for students."

10 A Yes.

11 Q Do you still believe that's true?

12 A I do.

13 Q Then on Page 7, near the top, on the end
14 of the first page there, it says: "Some students
15 attend school in bright, comfortable, and healthy
16 facilities, while others are assigned to
17 dilapidated, obsolete, and unhealthy facilities that
18 pose substantial obstacles to learning and overall
19 well-being."

20 A Yes.

21 Q Do you still believe that's the case?

22 A I do.

23 Q How do you think dilapidated, obsolete,
24 and unhealthy facilities pose substantial obstacles
25 to learning and overall well-being for students?

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1 A I think healthy -- there is such a thing
2 as a healthy school. There's a healthy home.

3 So whether it's in poor air quality, air
4 circulation, aging, floor coverings that capture,
5 you know, particles from the air.

6 I mean there's any number of -- any number
7 of things you could point to that, that, you know,
8 the research indicates and that intuitively makes
9 sense, that, you know, poor facilities can
10 contribute to these things that we've talked about.
11 The condition of -- poor condition of facilities.

12 Q And so a number of those things were
13 included on the checklist that the assessment team
14 used to evaluate the facilities they visited?

15 A Yes.

16 Q Would you expect then that if schools got
17 low marks in a number of those categories, that that
18 would impair student opportunities for learning and
19 well-being?

20 A Yes.

21 MS. TAYLOE: I think I'm -- I think I have
22 one possible thing. I want to find a document
23 to help close the loop on. Otherwise, I think
24 I'm done.

25 We need to take a quick break to consult

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1 and see if we're close to wrapping up.

2 THE VIDEOGRAPHER: Off the record at 4:02
3 p.m.

4 (A recess was taken.)

5 THE VIDEOGRAPHER: We're back on the
6 record at 4:04 p.m.

7 BY MS. TAYLOE:

8 Q I have just two real quick clean-up
9 questions and I'll let you go.

10 First, have you ever said no to a proposal
11 to relocate a facility? Have you ever denied a
12 request to relocate to a facility?

13 A Yes.

14 Q On what grounds?

15 A That it wasn't a suitable location for the
16 program.

17 Q And what made it unsuitable?

18 A Condition. There have been cases where I
19 said you can locate here but here's a list of things
20 you have to do, and the owner decided it wasn't
21 worth doing what I said you had to do.

22 But there have been -- there have been --
23 I won't be able to point to one specifically, but I
24 feel certain there was a place I visited and said,
25 no, not here. Keep looking.

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1 Q And I didn't say this in the question, but
2 you only do these inspections, approval process for
3 GNETS facilities? So it was a GNETS facilities that
4 was denied --

5 A That's correct.

6 Q -- relocation?

7 A That's correct.

8 Q Okay. Then the other question was who --
9 we talked before -- you're helping me understand
10 about student codes and program codes and all that.
11 Who makes the decision about how students and
12 programs and things are coded?

13 A Well, the codes themselves are generated
14 mechanically. So the -- it's organized this way.
15 Now, let's understand that this starts with
16 identifying a site for a school -- I'm taking you
17 through a new school.

18 A site. They build a facility. It gets a
19 code. This database, DOE plugs all that information
20 to, and they hit a button, the system assigns a code
21 to it.

22 The school code is also generated the same
23 way, when the school opens within the, the Facility
24 School Registry.

25 But the district makes the decision about

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1 whether I want to open a school or a program based
2 on the configuration of students.

3 Q So I'll make sure I understand that.

4 If -- when a new facility or a program is
5 being opened, the district decides whether it's a
6 school or a program?

7 A So a new facility is a building. Nobody
8 decides anything about that except the builder.

9 Once you build it, it goes into the
10 database as new high school. And when we say open
11 that facility, generates a code.

12 So you have -- coding system works this
13 way: You have -- every school system in the State
14 has a code, three-digit code. And then every
15 facility within that district has a four-digit code.

16 So you've got system code, facility code.

17 Now, the question becomes inside that
18 facility do you -- are you going to open a school or
19 a program. And -- schools make that -- school
20 systems make those decisions, within parameters.

21 You wouldn't open a 750 student K-5 population as a
22 program. If you tried that, the department would
23 say, oh, that's a mistake, we wouldn't allow that.

24 So you -- so that 750 student collection
25 of kids gets opened as a school. So now we have a

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1 system code, a facility code, and a school code.

2 Now, within that school the district may
3 decide we want a certain program for our kids. It
4 might be college and career academy, it might be a
5 GNETS program, it might be a gifted program. And so
6 what we're going to do is open that as a program so
7 that it has a program code. And it's different from
8 school code and different from facility code.

9 But program code, the fact that it's a
10 program code tells the coding system you can't, you
11 can't count this kid here. Tell me where that kid
12 belongs. It belongs to a school somewhere. Because
13 in that facility there may be one open school and
14 four or five open programs, that all report back to
15 that school code.

16 Q Okay. I got that now.

17 So a facility that has a GNETS classroom
18 or GNETS wing, for instance, would have a school
19 code for the general education population, and a
20 program code for the students who are being served
21 through GNETS, and those students being served
22 through GNETS would have school codes attached to
23 the sending school?

24 A Correct. Correct.

25 Q So on the flipside then -- because that

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1 seems easier when it's a classroom or wing. If you
2 have a center that serves multiple school systems,
3 there's a facility code for the facility, and a
4 program code for GNETS. Would that program code be
5 -- what would be the system code for that? Because
6 it would be the system in which it's located?

7 A I do not know the answer -- I do not
8 understand fully the funding mechanism behind how
9 centers -- I do know there are program codes, and
10 that does identify the student with a school code
11 and a school system.

12 All of that is really set up for
13 accountability and funding purposes, and that's
14 where my -- that wasn't what I did at the
15 department.

16 Q Okay.

17 A So I don't -- because I remember having to
18 work through this myself and being confused of where
19 the money really goes. Does it go back to the
20 system? Does it go to GNETS?

21 But there is an accounting structure that
22 is intended for the, for the program to report that
23 student at a school and system so that you keep that
24 chain-of-custody, for lack of a better way to put
25 it, to know where the kid belongs.

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1 Q And so do you happen to know -- I
2 understand this is not something you do -- if the
3 GNETS code varies by program?

4 A No. In fact -- here's the -- program
5 codes sometimes overlap. I mean they were typically
6 a 6,000 number, 6001, two, three, four, five, eight.

7 You might have a program code that is
8 exactly the same but because it links to, to
9 typically a school code and typically a facility
10 code and potentially the system code, the last
11 number is irrelevant -- not irrelevant. The last
12 number is directed by the first set of numbers. If
13 that makes any sense.

14 Q Well, I guess what I'm trying to figure
15 out is, if you looked at a code and you knew this
16 was typically a GNETS code -- GNETS code --
17 typically a GNETS program, say, in Valdosta, we were
18 talking about Valdosta -- I understand the system
19 code and the facility code and everything would be
20 different from typically a GNETS program in Colquitt
21 County?

22 A Right.

23 Q But would the GNETS code part be the same
24 or is that also more linked to the -- that's set up
25 by whatever the host system is?

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1 A Yeah. It's, it's -- it -- here's what
2 would happen. When you go into the Facility School
3 Registry and you -- and this is -- I just about have
4 to be looking at it to remember myself how it works,
5 but when -- what you would do is you would go to
6 typically a -- you would find typically a school
7 system by code. Then you would look at the facility
8 where you wanted to open this GNETS program in that
9 system. So you have typically a system facility
10 code.

11 I would open that facility, and in that
12 facility there might not be anything. There might
13 be typically a school, might not be anything. But
14 if I say in that facility I want to open typically a
15 program, I hit the button that says open program,
16 the program generates typically a program code. I
17 don't have any control over it. It assigns it
18 typically a code.

19 It may assign it based on what it knows or
20 it just may randomly assign it. It may know there's
21 already typically a 6001, so you get 6005.

22 Q Got it.

23 A But it may know it doesn't really matter
24 because once you get back to the facility system
25 level, that's the identifier anyway.

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1 So once that happened -- and then you
2 would tell the program, computer program, what the
3 open program parameters are, and it's saved, and you
4 -- there was an approval process through DOE. It
5 sends typically a message to DOE that says, hey, you
6 got a request for typically a program out there.
7 There's a staff person at DOE that would go look at
8 it, make sense of it, it makes sense, they approve.
9 If they have questions, there's a way to, you know,
10 communicate.

11 And that goes on until it's either
12 approved or rejected or fixed or changed, or
13 whatever they needed to do to get it working.

14 Q Okay. And then you said you were sure
15 there had been facilities that had been denied. Do
16 you know of the names of any of them, or you just
17 know there have been some?

18 A Well, I -- the last one I remember was the
19 one I referenced in Washington County where I went
20 and looked at a facility that when I gave them
21 typically a list of things they had to do to make it
22 appropriate, they passed on it.

23 Q So they found the list of things they
24 would have -- needs they would have to address to be
25 more trouble than it was worth?

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1 A That's right. Well, I'm going to assume
2 that's what they decided.

3 MS. TAYLOE: I'm sorry. I'm trying to
4 read my colleague's handwriting.

5 BY MS. TAYLOE:

6 Q You said that was the last one you
7 remember. Were there others?

8 A That's the last one I remember. I don't
9 have another one sticking out in my memory that I
10 remember visiting and saying this won't work, but
11 there may very well have been.

12 Q And how would that, the one you do
13 remember, how would that denial have been
14 documented?

15 A I'm assuming we communicated in an email.
16 I looked at -- or it may -- that I'm not sure of.
17 It may have been an email where I said, okay, I went
18 and looked at it. If you replace the four club --
19 if you replace the floor coverings, replace the HVAC
20 system, fix the broken door, whatever that list was
21 of just things you could look at, that any normal
22 human being would say, that's got to be fixed. They
23 came back and said, ahh, we'll keep looking.

24 Q And was that -- I don't know now to
25 pronounce this again. Ocone --

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1 A Ocone. .

2 Q -- GNETS? Ocone GNETS?

3 A Yeah. Ocone GNETS. Yeah, I think so.

4 Q And when was that? How long ago was that?

5 A 2020.

6 MS. TAYLOE: I think we're done.

7 MR. PICO PRATS: I'm good.

8 MS. TAYLOE: Thank you so much for your

9 time. We really appreciate your patience

10 explaining all that to me and --

11 THE WITNESS: Not a problem.

12 MS. TAYLOE: -- answering all the

13 questions.

14 THE VIDEOGRAPHER: Off the record -- off

15 the record at 4:17 p.m.

16 (Whereupon, the deposition concluded at

17 4:17 p.m.)

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C E R T I F I C A T E

STATE OF GEORGIA:

FULTON COUNTY:

I hereby certify that the foregoing transcript of MICHAEL D. ROWLAND was taken down, as stated in the caption, and the questions and answers thereto were reduced by stenographic means under my direction;

That the foregoing Pages 1 through 189 represent typically a true and correct transcript of the evidence given upon said hearing;

And I further certify that I am not of kin or counsel to the parties in this case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 20th day of June, 2022.

Wanda L. Robinson

Wanda L. Robinson, CRR, CCR No. B-1973
My Commission Expires 10/11/2023

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FULTON COUNTY) MICHAEL D. ROWLAND - 6/09/22
Pursuant to Article 10.B of the Rules and
Regulations of the Board of Court Reporting
of the Judicial Council of Georgia, I make the
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CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me. Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

Signature of Deponent

I hereby certify that the individual representing himself/herself to be the above-named individual, appeared before me this _____ day of _____, 2022, and executed the above certificate in my presence.

NOTARY PUBLIC

MY COMMISSION EXPIRES: